

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

5
6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION : :
9 :
10 APPLIES TO ALL CASES : NO.
11 : 1:17-MD-2804
12 :

13 - HIGHLY CONFIDENTIAL -

14 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15 - - -

16 October 24, 2018

17 - - -

18 Videotaped deposition of
19 STEPHEN MAYS, taken pursuant to notice,
20 was held at the law offices of Reed
21 Smith, LLP, 1717 Arch Street,
22 Philadelphia, Pennsylvania, beginning at
23 9:37 a.m., on the above date, before
24 Michelle L. Gray, a Registered
Professional Reporter, Certified
Shorthand Reporter, Certified Realtime
Reporter, and Notary Public.

 - - -

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 deps@golkow.com

Page 2	Page 4
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Page 3	Page 5
<p>1 APPEARANCES: (Cont'd.)</p> <p>2</p> <p>3 REED SMITH, LLP</p> <p>4 BY: SHANNON E. McCLURE, ESQ.</p> <p>5 JEFFREY R. MELTON, ESQ.</p> <p>6 ROBERT A. NICHOLAS, ESQ.</p> <p>7 Three Logan Square</p> <p>8 1717 Arch Street, Suite 3100</p> <p>9 Philadelphia, Pennsylvania 19103</p> <p>10 (215) 851-8226</p> <p>11 smcclure@reedsmith.com</p> <p>12 jmelton@reedsmith.com</p> <p>13 rnicholas@reedsmith.com</p> <p>14 Representing the Defendant,</p> <p>15 Amerisource Bergen Drug Corporation</p> <p>16 and the Witness</p> <p>17</p> <p>18 JONES DAY</p> <p>19 BY: SARAH G. CONWAY, ESQ.</p> <p>20 555 South Flower Street, 30th Floor</p> <p>21 Los Angeles, California 90071</p> <p>22 (213) 489-3939</p> <p>23 sgconway@jonesday.com</p> <p>24 Representing the Defendant, Walmart</p> <p>25</p> <p>26 PELINI CAMPBELL & WILLIAMS</p> <p>27 BY: GIANNA M. CALZOLA-HELMICK, ESQ.</p> <p>28 8040 Cleveland Avenue NW, Suite 400</p> <p>29 North Canton, Ohio 44720</p> <p>30 (330) 305-6400</p> <p>31 giannac@pelini-law.com</p> <p>32 Representing the Defendant,</p> <p>33 Prescription Supply, Inc.</p> <p>34</p> <p>35 COVINGTON & BURLING, LLP</p> <p>36 BY: MEGHAN E. MONAGHAN, ESQ.</p> <p>37 850 Tenth Street, NW</p> <p>38 Suite 586N</p> <p>39 Washington, D.C. 20001</p> <p>40 mmonaghan@cov.com</p> <p>41 (202) 662-5110</p> <p>42 Representing the Defendant, McKesson</p> <p>43 Corporation</p> <p>44</p>	<p>1 TELEPHONIC APPEARANCES:</p> <p>2</p> <p>3 BLASINGAME, BURCH, GARRARD,</p> <p>4 ASHLEY, P.C.</p> <p>5 BY: THOMAS HOLLINGSWORTH, III, ESQ.</p> <p>6 440 College Avenue, Suite 320</p> <p>7 Athens, Georgia 30601</p> <p>8 (706) 354-4000</p> <p>9 thollingsworth@bbga.com</p> <p>10 Representing the Plaintiffs</p> <p>11</p> <p>12 REED SMITH, LLP</p> <p>13 BY: THOMAS P. REILLY, ESQ.</p> <p>14 ABIGAIL M. PIERCE, ESQ.</p> <p>15 LOUIS W. SCHACK, ESQ.</p> <p>16 Three Logan Square</p> <p>17 1717 Arch Street, Suite 3100</p> <p>18 Philadelphia, Pennsylvania 19103</p> <p>19 (215) 851-8226</p> <p>20 Treilly@reedsmith.com</p> <p>21 Apierce@reedsmith.com</p> <p>22 Lschack@reedsmith.com</p> <p>23 Representing the Defendant,</p> <p>24 Amerisource Bergen Drug Corporation</p> <p>25</p> <p>26 ROPES & GRAY</p> <p>27 BY: COLLEEN B. CREEDEN, ESQ.</p> <p>28 800 Boylston Street</p> <p>29 Boston, Massachusetts 02199</p> <p>30 (617) 951-7234</p> <p>31 Colleen.creedon@ropesgray.com</p> <p>32 Representing the Defendant,</p> <p>33 Mallinckrodt</p> <p>34</p>

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<p>1 APPEARANCES: (Cont'd.)</p> <p>2</p> <p>3 ALSO PRESENT:</p> <p>4 VIDEOTAPE TECHNICIAN:</p> <p>5 Dan Lawlor</p> <p>6</p> <p>7 LITIGATION TECHNICIAN:</p> <p>8 Zach Hone</p> <p>9 ALSO PRESENT:</p> <p>10 Elizabeth Campbell, Esq.</p> <p>11 (AmerisourceBergen)</p> <p>12</p> <p>13 - - -</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 E X H I B I T S (Cont'd.)</p> <p>2</p> <p>3</p> <p>4</p> <p>5 NO. DESCRIPTION PAGE</p> <p>6 ABDC-Mays-4 E-mail Thread 282</p> <p>7 11/11/14</p> <p>8 Subject, HDMA OMP</p> <p>9 Guidelines</p> <p>10 ABDCMDL00295006-07</p> <p>11 ABDC-Mays-5 E-mail Thread 287</p> <p>12 2/5/12</p> <p>13 Subject, CAH gets TRO</p> <p>14 ABDCMDL00865762-64</p> <p>15</p> <p>16 ABDC-Mays-6 E-mail Thread 330</p> <p>17 8/20/13</p> <p>18 Subject, Low Volume/</p> <p>19 High Oxy</p> <p>20 ABDCMDL00288025</p> <p>21</p> <p>22 ABDC-Mays-7 E-mail, 7/1/13 330</p> <p>23 Subject, Low Volume</p> <p>24 Account Project</p> <p>ABDCMDL00288026</p> <p>ABDC-Mays-8 Sales Talking Points 332</p> <p>Low Volume Accounts</p> <p>July 2013</p> <p>ABDCMDL00288028</p> <p>ABDC-Mays-9 E-mail, 6/17/13 347</p> <p>Subject, Low Volume</p> <p>ABDCMDL00282233</p> <p>ABDC-Mays-10 Slide Deck 347</p> <p>OMP Strategy</p> <p>For Retail Accounts</p> <p>ABDCMDL00282234</p>
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<p>1</p> <p>2 I N D E X</p> <p>3</p> <p>4</p> <p>5 Testimony of: STEPHEN MAYS</p> <p>6 By Mr. Pifko 13</p> <p>7</p> <p>8</p> <p>9</p> <p>10 - - -</p> <p>11 E X H I B I T S</p> <p>12</p> <p>13 - - -</p> <p>14 NO. DESCRIPTION PAGE</p> <p>15 ABDC-Mays-1 Slide Deck 152</p> <p>16 Internet Pharmacy</p> <p>17 Data</p> <p>18 Meeting with</p> <p>19 AmerisourceBergen</p> <p>20 DEA Headquarters</p> <p>21 8/10/05</p> <p>22 ABDCMDL00315887-900</p> <p>23</p> <p>24</p> <p>ABDC-Mays-2 Memorandum, 6/29/07 221</p> <p>Subject, Update:</p> <p>OMP Distribution</p> <p>Center Procedures</p> <p>ABDCMDL00000075-84</p> <p>ABDC-Mays-3 Industry Compliance 282</p> <p>Guidelines</p> <p>ABDCMDL00295009-24</p>	<p>1 E X H I B I T S (Cont'd.)</p> <p>2</p> <p>3</p> <p>4</p> <p>5 NO. DESCRIPTION PAGE</p> <p>6 ABDC-Mays-11 E-mail Thread 368</p> <p>7 9/27/13</p> <p>8 Subject, Do Not Ship</p> <p>9 List</p> <p>10 ABDCMDL00289421</p> <p>11 ABDC-Mays-12 E-mail Thread 358</p> <p>12 3/14/17</p> <p>13 Subject, More WVA</p> <p>14 Counties Target</p> <p>15 Distributors</p> <p>16 ABDCMDL00275491-92</p> <p>17</p> <p>18 ABDC-Mays-13 E-mail Thread 368</p> <p>19 9/27/13</p> <p>20 Subject, CIII</p> <p>21 Item Received</p> <p>22 ABDCMDL00289422-29</p> <p>23</p> <p>24</p>

<p style="text-align: right;">Page 10</p> <p style="text-align: center;">- - - PREVIOUSLY MARKED EXHIBITS - - -</p> <p>NO. DESCRIPTION Zimmerman-5 Settlement and Release Agreement 6/22/07 ABDCMDL00279854-86</p>	<p style="text-align: right;">Page 12</p> <p style="text-align: center;">- - -</p> <p>THE VIDEOGRAPHER: We are now on the record. My name is Dan Lawlor. I'm the videographer with Golkow Litigation Services. Today's date is October 24, 2018, and the time is 9:37 a.m.</p> <p>This video deposition is being held in Philadelphia, Pennsylvania, in the matter of National Prescription Opiate Litigation, MDL No. 2804. The deponent is Steve Mays. Counsel will be noted on the stenographic record. The court reporter is Michelle Gray who will now swear in the witness.</p> <p style="text-align: center;">- - -</p> <p>... STEPHEN MAYS, having been first duly sworn, was examined and testified as follows:</p> <p style="text-align: center;">- - -</p> <p style="text-align: center;">EXAMINATION</p>
<p style="text-align: right;">Page 11</p> <p style="text-align: center;">- - - DEPOSITION SUPPORT INDEX - - -</p> <p>Direction to Witness Not to Answer PAGE LINE None.</p> <p>Request for Production of Documents PAGE LINE None.</p> <p>Stipulations PAGE LINE None.</p> <p>Questions Marked PAGE LINE None.</p>	<p style="text-align: right;">Page 13</p> <p style="text-align: center;">- - -</p> <p>BY MR. PIFKO:</p> <p>Q. Good morning, Mr. Mays.</p> <p>A. Good morning.</p> <p>Q. How are you?</p> <p>A. Good.</p> <p>Q. Can you please -- let's start by having you state and spell your name for the record?</p> <p>A. Stephen Mays, S-T-E-P-H-E-N, M-A-Y-S.</p> <p>Q. And we'll just start by going over basics about depositions. I'm sure that in preparing for the deposition, your counsel went over this with you. But we'll hit some of the high points just to make sure that everyone in the room are on the same page. Okay?</p> <p>A. Okay.</p> <p>Q. So first of all, you've just been put under oath. That means that if you lie or are intentionally dishonest or deceitful, you can be subject to penalties or perjury charges from the</p>

<p style="text-align: right;">Page 14</p> <p>1 court.</p> <p>2 Do you understand that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Is there any reason why</p> <p>5 you're unable to give truthful and</p> <p>6 accurate testimony today?</p> <p>7 A. No.</p> <p>8 Q. Are you undergoing any</p> <p>9 treatment or taking any medication that</p> <p>10 would impair your memory?</p> <p>11 A. No.</p> <p>12 Q. Is there any reason that you</p> <p>13 can state that you think that the</p> <p>14 deposition should not go forward today?</p> <p>15 A. No.</p> <p>16 Q. I'm going to be asking you</p> <p>17 questions. And unless your counsel</p> <p>18 instructs you not to answer, I'm entitled</p> <p>19 to an answer.</p> <p>20 Do you understand that?</p> <p>21 A. I understand.</p> <p>22 Q. I want to make sure that you</p> <p>23 understand my questions, so if you don't</p> <p>24 understand something that I ask you,</p>	<p style="text-align: right;">Page 16</p> <p>1 A. No, I do not.</p> <p>2 Q. Okay. I'm glad I asked. We</p> <p>3 shouldn't make assumptions here. Did you</p> <p>4 go to high school?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Where did you attend</p> <p>7 high school?</p> <p>8 A. Hixson High School.</p> <p>9 H-I-X-S-O-N. Hixson High School,</p> <p>10 Tennessee.</p> <p>11 Q. Okay. So high school, did</p> <p>12 you finish high school?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And that's the</p> <p>15 highest level of education that you</p> <p>16 completed?</p> <p>17 A. Some college. I just didn't</p> <p>18 get a degree.</p> <p>19 Q. Where did you take college</p> <p>20 courses?</p> <p>21 A. Middle Tennessee State</p> <p>22 University in Murfreesboro, Tennessee,</p> <p>23 and also University of Tennessee in</p> <p>24 Chattanooga.</p>
<p style="text-align: right;">Page 15</p> <p>1 please let me know, and I will attempt to</p> <p>2 rephrase the question in a way that makes</p> <p>3 it so that you do understand it.</p> <p>4 Understood?</p> <p>5 A. Yes.</p> <p>6 Q. From time to time I might be</p> <p>7 asking you about historical events. I</p> <p>8 don't want you to guess. But I do -- I</p> <p>9 am entitled under the law to your best</p> <p>10 recollection.</p> <p>11 So if you have no idea about</p> <p>12 something, of course you can say you</p> <p>13 don't know. But if you have a general</p> <p>14 recollection, maybe just don't recall the</p> <p>15 specifics, I'm still entitled to an</p> <p>16 answer. Understood?</p> <p>17 A. I understand.</p> <p>18 Q. All right. Well, let's</p> <p>19 start by talking about -- a little bit</p> <p>20 about who you are and your background</p> <p>21 with the company.</p> <p>22 Let's talk about your</p> <p>23 educational experience. I assume you</p> <p>24 have a college degree?</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Were you enrolled as a</p> <p>2 full-time student at any point?</p> <p>3 A. At MTSU, I was.</p> <p>4 Q. Okay. And how long were you</p> <p>5 a full-time student?</p> <p>6 A. Just a -- just a semester.</p> <p>7 Q. Okay. And then you took</p> <p>8 some additional classes on a part-time</p> <p>9 basis?</p> <p>10 A. Mm-hmm.</p> <p>11 Q. How long did you do that?</p> <p>12 A. Probably about six months to</p> <p>13 a year. I can't remember exactly.</p> <p>14 Q. Okay. So you have a year of</p> <p>15 full-time and then the next year, was it</p> <p>16 immediately after you kind of switched to</p> <p>17 doing it part-time?</p> <p>18 A. I went to school part-time</p> <p>19 after I was -- started to work for the</p> <p>20 company in Chattanooga.</p> <p>21 Q. Okay. So you were full-time</p> <p>22 student, I assume, right after you</p> <p>23 graduated high school?</p> <p>24 A. Yes, that's correct.</p>

<p style="text-align: right;">Page 18</p> <p>1 Q. Okay. Then what happened 2 after that first year of school. Let me 3 be more specific. As far as your next 4 career or school movement. Did you 5 immediately start working for 6 AmerisourceBergen? 7 A. Pretty much so, as I recall, 8 yeah. 9 Q. Okay. And then there was a 10 time when you were working for 11 AmerisourceBergen and attending school as 12 well? 13 A. Yes. 14 Q. Was that -- 15 A. Can I correct you on -- it 16 really wasn't AmerisourceBergen at the 17 time. It was an independent drug company 18 called Duff Brothers -- 19 Q. Okay. 20 A. -- in Chattanooga. It was a 21 predecessor company to Amerisource. 22 Q. Okay. So during that 23 time -- that was the year immediately 24 following your first full year of</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Do you remember? 2 A. The first year of college? 3 Q. Yeah. When you were a 4 full-time student? 5 A. Just general courses. 6 Q. Okay. 7 A. Yeah. 8 Q. Did you specialize in any 9 sort of finance classes or business 10 classes or anything like that? 11 A. I don't recall, because I 12 wasn't really sure what I wanted to do. 13 Q. Okay. So then you complete 14 that year, how did you come to work at 15 Duff Brothers? 16 A. Actually went through an 17 employment agency. And that's who they 18 used. And they got me the contact to get 19 the job there at Duff Brothers. 20 Q. And what was your first job 21 there? 22 A. As an order filler in the 23 warehouse. 24 Q. What were your</p>
<p style="text-align: right;">Page 19</p> <p>1 school -- 2 A. Mm-hmm. 3 Q. -- of college? 4 A. Mm-hmm. Yes. 5 Q. Okay. So during that next 6 year, you attended classes part-time and 7 worked part-time? 8 A. I don't recall when I 9 attended classes. It wasn't during that 10 first year of employment. It was 11 sometime after. 12 Q. Okay. You said that you 13 took part-time classes for six months to 14 a year. Was that consecutive or was that 15 spread out over time? 16 A. I can't recall. I took -- I 17 think I took an accounting course and 18 something else. But it was after I was 19 employed. 20 Q. Okay. And that first year 21 when you were full-time, what kind of 22 classes did you take? 23 MS. McCLURE: Objection. 24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 21</p> <p>1 responsibilities as an order filler? 2 A. Stocking the shelves and 3 filling orders for pharmaceuticals. 4 Q. So Duff Brothers was, you 5 said, a distributor, small distributor? 6 A. Mm-hmm, yes. 7 Q. What was its area of 8 regional reach? What customers, where 9 were they? 10 A. Mainly the area around 11 Chattanooga, north Georgia, Tennessee, 12 North Carolina. In kind of that regional 13 area around Chattanooga. 14 Q. And what time period is 15 this? Let me ask a more specific 16 question. When did you graduate high 17 school? 18 A. '73, June of '73. 19 Q. Okay. And then you were a 20 full-time student in the school year of 21 '73 to '74? 22 A. Mm-hmm, yes. 23 Q. You started working at Duff 24 Brothers sometime in '74?</p>

<p style="text-align: right;">Page 22</p> <p>1 A. July of '74.</p> <p>2 Q. Were you part-time when you</p> <p>3 started that, or was that a full-time</p> <p>4 job?</p> <p>5 A. Full-time.</p> <p>6 Q. And then how long did you</p> <p>7 serve as an order filler for?</p> <p>8 A. I believe about three or</p> <p>9 four years.</p> <p>10 Q. What was your next job?</p> <p>11 A. Lead.</p> <p>12 Q. It was just called lead?</p> <p>13 A. Yes, like lead order filler,</p> <p>14 where you --</p> <p>15 Q. Okay. How long were you in</p> <p>16 that role?</p> <p>17 A. Just about a year.</p> <p>18 Q. And then what was your next</p> <p>19 position?</p> <p>20 A. After that I supervised a</p> <p>21 merchandising and labeling crew for about</p> <p>22 two years.</p> <p>23 Q. What was your next job?</p> <p>24 A. Warehouse supervisor.</p>	<p style="text-align: right;">Page 24</p> <p>1 warehouse manager, how long were you in</p> <p>2 that role?</p> <p>3 A. Probably a couple of more</p> <p>4 years after that.</p> <p>5 Q. Okay. Then you said you</p> <p>6 were operations manager.</p> <p>7 A. Mm-hmm.</p> <p>8 Q. Then you mentioned something</p> <p>9 about Georgia. So your -- Duff Brothers</p> <p>10 acquired a company that was based in</p> <p>11 Georgia?</p> <p>12 A. Well, our parent company.</p> <p>13 Q. Okay. Who was the parent</p> <p>14 company?</p> <p>15 A. Alco. Alco Standard.</p> <p>16 Q. How do you spell that?</p> <p>17 A. A-L-C-O. Alco Standard,</p> <p>18 S-T-A-N-D-A-R-D.</p> <p>19 Q. Okay. So what was the name</p> <p>20 of that company in Georgia that was --</p> <p>21 A. Valdosta Drug Company.</p> <p>22 Q. Sorry. Can you say that</p> <p>23 again?</p> <p>24 A. I'm sorry, Valdosta Drug</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Next job after that?</p> <p>2 A. Warehouse manager.</p> <p>3 Q. How about after that?</p> <p>4 A. Operations manager.</p> <p>5 Q. After that?</p> <p>6 A. I remained operations</p> <p>7 manager for several years. Moved to</p> <p>8 Valdosta, Georgia, in I think '94. And</p> <p>9 we had acquired a distributor in</p> <p>10 Valdosta, and we consolidated or closed</p> <p>11 down that distributor, and then we opened</p> <p>12 a new distribution center in Orlando.</p> <p>13 Q. So you threw out a bunch of</p> <p>14 information there. You mentioned -- so</p> <p>15 you were -- okay. Let's just make sure</p> <p>16 that we have time periods on this.</p> <p>17 So lead order filler for</p> <p>18 about one year. You were supervising a</p> <p>19 merchandising and labeling crew for two</p> <p>20 years. Then you were warehouse</p> <p>21 supervisor for about how long?</p> <p>22 A. Couple, a couple of years.</p> <p>23 I'm not really sure. I don't remember.</p> <p>24 Q. Then you became manager,</p>	<p style="text-align: right;">Page 25</p> <p>1 Company.</p> <p>2 Q. Can you spell that?</p> <p>3 A. V-A-L-D-O-S-T-A.</p> <p>4 Q. Okay. Did you ever move to</p> <p>5 Georgia?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So at the time of</p> <p>8 that acquisition, you moved to Georgia?</p> <p>9 A. Yes.</p> <p>10 Q. And then maybe what you were</p> <p>11 trying to say is, were you personally</p> <p>12 involved in the consolidation of the --</p> <p>13 the facilities?</p> <p>14 A. Yes. Mm-hmm.</p> <p>15 Q. Okay. And so you were</p> <p>16 personally involved in closing down</p> <p>17 whatever operations and transferring them</p> <p>18 to the new operation in Orlando, correct?</p> <p>19 A. That's correct, yes.</p> <p>20 Q. Do you remember about the</p> <p>21 time period around when that was, just</p> <p>22 the year?</p> <p>23 A. It was late '94, I believe.</p> <p>24 Q. Okay. And then what did you</p>

<p style="text-align: right;">Page 26</p> <p>1 do after opening the Orlando distribution 2 center?</p> <p>3 A. After that I went to work 4 for corporate as regulatory affairs 5 manager. And that was probably around 6 2000 I believe. Yeah.</p> <p>7 Q. Was all that still for -- 8 Well, okay, so you worked for Duff 9 Brothers, but Duff Brothers was owned by 10 Alco Standard. And they acquired -- I 11 don't think I can say it right.</p> <p>12 A. Valdosta.</p> <p>13 Q. -- Valdosta Drug Company. 14 What -- what was the name of 15 the company at that point?</p> <p>16 MS. McCLURE: Objection. 17 BY MR. PIFKO:</p> <p>18 Q. Still Duff Brothers? 19 MS. McCLURE: Objection. 20 THE WITNESS: Okay. So 21 originally I went to work for Duff 22 Brothers. They were acquired by 23 Alco in '79 I believe. Okay. 24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 28</p> <p>1 public, yeah.</p> <p>2 Q. Okay. So then you -- in 3 around the year 2000 you moved into the 4 corporate offices as a regulatory affairs 5 manager, correct?</p> <p>6 A. No. That's not correct.</p> <p>7 Q. Oh okay.</p> <p>8 A. I went to work as a 9 regulatory affairs manager, but I worked 10 from home in Orlando for approximately 11 two years and traveled significantly.</p> <p>12 Q. Were you the only regulatory 13 affairs manager for Amerisource at that 14 time?</p> <p>15 A. No.</p> <p>16 Q. So were you just the 17 regulatory affairs manager for the 18 Orlando facility?</p> <p>19 A. No. I had a specific 20 assignment for oversight of several 21 distribution centers, but I can't 22 remember, you know, which -- which area 23 of the country it was. 24 Q. Did it include the Orlando</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Okay. And so then in 1994 2 you were still working for Alco, correct?</p> <p>3 A. Right about that time.</p> <p>4 Q. Okay. When you opened this 5 Orlando distribution center, who were you 6 employed by?</p> <p>7 A. Amerisource.</p> <p>8 Q. Okay. When did Amerisource 9 get involved?</p> <p>10 A. While I was in Valdosta. 11 The -- it was the company did -- went 12 public as Amerisource.</p> <p>13 Q. Okay. So you've really been 14 here from the ground floor?</p> <p>15 A. Yeah.</p> <p>16 Q. Do you know about when the 17 company started using the name 18 Amerisource?</p> <p>19 A. Yeah, I think it was '94.</p> <p>20 Q. Okay. And to your 21 knowledge, that's the first time the 22 company now known as AmerisourceBergen 23 was using Amerisource? 24 A. That's, yeah, when they went</p>	<p style="text-align: right;">Page 29</p> <p>1 distribution center?</p> <p>2 MS. McCLURE: Objection. 3 You can answer.</p> <p>4 THE WITNESS: I don't -- I 5 don't believe so. 6 BY MR. PIFKO:</p> <p>7 Q. Can you name any area that 8 was under your control as a regulatory 9 affairs manager?</p> <p>10 A. I can't really recall my 11 main -- my main job responsibility was 12 conducting audits of distribution 13 centers. And so it was basically just 14 assisting certain ones if they had 15 regulatory questions or anything like 16 that.</p> <p>17 Q. Who did you report to when 18 you took that job as regulatory affairs 19 manager in the year 2000?</p> <p>20 A. Rodney Bias, B-I-A-S is his 21 last name.</p> <p>22 Q. Where was Rodney based? 23 A. He was based at the 24 corporate offices in Chesterbrook.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. Do you know when the company 2 first had its offices in Chesterbrook? 3 A. I can't remember exactly the 4 date. 5 Q. How about roughly? 6 A. I think it probably would 7 have been late '90s. 8 Q. Around when it went public 9 or after that? 10 A. I think it was around that 11 time. They were in the same area but a 12 different office complex. 13 Q. So you were kind of telling 14 me, but let me just ask you more 15 specifically. What was your job 16 responsibilities as a regulatory affairs 17 manager when you took that position in 18 the year 2000? 19 A. Conduct security and 20 regulatory audits of our distribution 21 centers and provide regulatory 22 assistance. 23 Q. So you would travel to 24 distribution centers to conduct these</p>	<p style="text-align: right;">Page 32</p> <p>1 MS. McCLURE: Objection. 2 THE WITNESS: Yes. 3 BY MR. PIFKO: 4 Q. Okay. What was the nature 5 of your training? 6 A. It was called -- I think at 7 that time it was a 12-hour security and 8 regulatory compliance training program. 9 Q. And how was that conducted? 10 Did someone come and make a presentation 11 to you or was there a video, or do you 12 remember? 13 A. It was basically in-person 14 training at a compliance conference. 15 Q. Did you fly to the 16 headquarters in Chesterbrook to receive 17 that training? 18 A. Sometimes it was there, and 19 other times it was remote. 20 Q. So there was more than one 21 training session? 22 A. Yes. Pretty much annually 23 for the most part. 24 Q. Okay. And so annually</p>
<p style="text-align: right;">Page 31</p> <p>1 audits? 2 A. Mm-hmm, yes, sir. 3 Q. Do you recall about how many 4 distribution centers the company had at 5 that time? 6 A. It seems like it was in the 7 20s, 22, something like that. 8 Q. Did you travel all around 9 the country? 10 A. Yes, sir. 11 Q. Can you remember any 12 specific locations that you recall 13 traveling to to perform these audits? 14 A. Quite a few, yeah. 15 Q. Okay. Just name some that 16 you remember. 17 A. Toledo. Columbus. 18 Portland. Mira Loma, California. Grand 19 Prairie, Texas. Lynchburg, Virginia. I 20 can't remember any others. There were 21 others. 22 Q. Did you receive any special 23 training when you became regulatory 24 affairs manager?</p>	<p style="text-align: right;">Page 33</p> <p>1 was -- you said 10 to 12 hours I think 2 you said? 3 MS. McCLURE: Objection. 4 THE WITNESS: Yes. 5 BY MR. PIFKO: 6 Q. So is that a couple days a 7 year you would do training? 8 A. I believe so, yeah. 9 Q. Do you remember the name of 10 any of the people who performed the 11 training for you? 12 A. Yes. 13 Q. Can you tell me those names? 14 A. Rodney Bias. Larry Holland. 15 Those two mainly. 16 Q. Where was Rodney based? 17 A. In the corporate office. 18 Q. In Chesterbrook? 19 A. Yes. 20 Q. How about Larry Holland? 21 A. He was prior to Rodney. I 22 think he hired Rodney and then I think 23 Larry retired, but I think Larry was 24 there to also -- he worked out of the</p>

<p style="text-align: right;">Page 34</p> <p>1 corporate office. 2 Q. Did you receive any 3 documentation when you received these 4 trainings? 5 A. Yes. 6 Q. Were there handouts? Yes? 7 A. Yes. 8 Q. Can you describe anything 9 that you remember from the training? 10 A. It pretty much covered all 11 of the regulatory requirements that we 12 have as a company. And it was focused a 13 lot on, you know, DEA regulations and how 14 to comply with those. And how the 15 company complies with them. 16 Q. But the Controlled 17 Substances Act, have you heard of that? 18 A. Yes. Of course. 19 Q. That kind -- the training 20 about regulations under the Controlled 21 Substance Act; is that correct? 22 A. That's correct. 23 Q. Did you receive training on, 24 have you heard the term diversion?</p>	<p style="text-align: right;">Page 36</p> <p>1 diversion? 2 MS. McCLURE: Objection. 3 You can answer. 4 THE WITNESS: Again, I don't 5 remember the exact wording of the 6 regulation. But there is -- there 7 is a requirement. 8 BY MR. PIFKO: 9 Q. Was there training as 10 regulatory affairs manager geared around 11 what these locations needed to do to 12 prevent diversion? 13 A. Yes. 14 Q. Did you have -- so you 15 performed audits, correct? 16 A. That's correct. 17 Q. Did you have like a 18 checklist or some sort of outline you 19 would use when you did your audits? 20 A. Yes. 21 Q. Did that have a name? 22 A. It was just security and 23 regulatory compliance audit checklist. I 24 think something, something like that,</p>
<p style="text-align: right;">Page 35</p> <p>1 A. Yes. 2 Q. Okay. Have you heard about 3 the idea of a -- do you know what a 4 registrant is? 5 A. Yes. 6 Q. Okay. Have you heard about 7 the idea that a registrant has a duty to 8 prevent diversion? 9 MS. McCLURE: Objection to 10 form. 11 You can answer. 12 THE WITNESS: Yeah, I'm not 13 sure of the exact wording, yes. 14 But yes. 15 BY MR. PIFKO: 16 Q. Okay. Do you understand 17 that at that time Amerisource was a 18 registrant under the Controlled Substance 19 Act? 20 A. The Amerisource registered 21 locations were, yes. 22 Q. Okay. And did you 23 understand that those registered 24 locations had a duty to prevent</p>	<p style="text-align: right;">Page 37</p> <p>1 yeah. 2 Q. Was it a long document? 3 MS. McCLURE: Objection. 4 Form. 5 THE WITNESS: I don't know 6 what do you mean by long. 7 BY MR. PIFKO: 8 Q. I knew you were going to say 9 that. Was it more than 50 pages? 10 A. Again, that depends on like 11 is it printed front and back. Or, you 12 know, I can tell you that it was 13 approximately 200 questions, but it was 14 constantly changing. 15 Q. This is in 2000 we're 16 talking about, correct? 17 A. Mm-hmm, yes. 18 Q. And so I assume it wasn't 19 digital. It wasn't on the internet. You 20 had a physical copy? 21 A. Right, that's correct. 22 Q. You take it with you to when 23 you did the audits? 24 A. That's correct.</p>

<p style="text-align: right;">Page 38</p> <p>1 Q. Okay. Was it in a notebook 2 or something? 3 A. Just typically not in a 4 notebook, basically just stapled 5 together. 6 Q. Okay. So it was big enough 7 that it could be stapled -- small enough 8 that it could be stapled together, 9 correct? 10 A. Or with a binder of some 11 sort, yeah. 12 Q. I've got a bunch of papers 13 in front of me. I've got this notepad. 14 I've got a binder here, that's about two 15 inches thick. Was it more like this 16 notepad? 17 A. Mm-hmm, yes. 18 MS. McCLURE: By "this 19 notepad," do you want to describe 20 that for the record? 21 MR. PIFKO: Yeah, for the 22 record the notepad's maybe a 23 centimeter thick. It's a standard 24 legal pad. 8-and a half-by-11</p>	<p style="text-align: right;">Page 40</p> <p>1 there a way that you walked around the 2 plant? 3 MS. McCLURE: Objection to 4 form. 5 BY MR. PIFKO: 6 Q. That's what I'm asking -- -- 7 MS. McCLURE: Compound. 8 BY MR. PIFKO: 9 Q. -- when I say is there a 10 procedure that you followed. 11 A. Yes. 12 Q. Okay. Let me -- I can tell 13 your counsel told you to answer the 14 questions in a very narrow way. So let 15 me just unpack this for you. 16 MS. McCLURE: Object to the 17 commentary for the record. 18 BY MR. PIFKO: 19 Q. Do you call up somebody at 20 the facility before you are going to 21 conduct the audit to let them know that 22 you were coming? 23 A. No. 24 Q. You would just show up at</p>
<p style="text-align: right;">Page 39</p> <p>1 piece of paper. 2 BY MR. PIFKO: 3 Q. So -- but something that you 4 can easily just carry along in your 5 hands, correct? 6 A. Correct. 7 Q. Okay. And so you would take 8 that with you when you would do these 9 audits, correct? 10 A. That's correct. 11 Q. And then was there a 12 procedure that you would use when you 13 were conducting these audits? 14 A. Yes. 15 Q. Okay. Can you walk me 16 through what the procedure is? 17 A. Phew. 18 Q. Let me explain what I'm 19 looking for. 20 A. Yeah, that would help. 21 Q. Do you call the facility in 22 advance of conducting the audit, let them 23 know when they are coming, when you get 24 there, do you talk to a manager? Was</p>	<p style="text-align: right;">Page 41</p> <p>1 random? 2 A. Yes. 3 Q. Okay. When you arrived at 4 the facility, what was the first thing 5 that you did? 6 A. Conduct an opening meeting. 7 Q. And just to be clear, you 8 used the same procedure regardless of the 9 location that you were auditing, correct? 10 A. That's correct. 11 Q. And you used the same audit 12 checklist or document that we talked 13 about, correct? 14 A. That's correct. 15 Q. So you walk in the facility. 16 You ask for somebody. You said you had 17 some sort of meeting. That was the first 18 thing you do? 19 A. Mm-hmm, yes. 20 Q. Who do you ask for? 21 A. I think at that time it 22 would probably have been like the 23 distribution center manager. 24 Q. Okay. And so they had no</p>

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1 idea that you were coming?
2 A. They didn't.
3 Q. Okay. They have to drop
4 whatever they're doing and come meet with
5 you?
6 A. Yes.
7 Q. So you go meet with them in
8 a conference room?
9 A. Typically.
10 Q. And you tell them, "Hi, I'm
11 here to conduct an audit," correct?
12 A. That's correct.
13 Q. And then you tell them
14 things that you are going to be doing in
15 the audit, places that you need to go?
16 A. Correct.
17 Q. Okay. What was the next
18 step after you had the initial meeting
19 with the distribution center manager?
20 A. We would ask them for a list
21 of documents and records that we want to
22 review. And then we would do a
23 walkthrough of the facility.
24 Q. Do you recall what the types

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1 of documents were that you would review?
2 A. I can't give you an
3 all-inclusive list. It would be like DEA
4 224 forms, inventory reports, a lot of
5 corporate required records about, you
6 know, associates. We would ask for
7 training records. Things like that.
8 Records and reports.
9 Q. Have you heard the term
10 "suspicious order" before?
11 A. Yes.
12 Q. Did you ask for suspicious
13 order reports as part of these audits?
14 A. I believe so.
15 Q. And then you said you did a
16 walkthrough of the facility?
17 A. That's correct.
18 Q. What did you do in the
19 walkthrough?
20 A. Just look for any type of
21 obvious security or safety violations.
22 Q. And then when you document
23 your findings in the walkthrough?
24 A. Yes. That's part of the

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1 audit.
2 Q. Then you have a document
3 that you're using to guide you through
4 the process, correct?
5 A. That's correct.
6 Q. Are you -- you're writing on
7 that document things that you're
8 observing, as you're doing the walk
9 through?
10 A. Typically not at the same
11 time.
12 Q. Okay.
13 A. It's cumbersome to carry a
14 checklist around all over the place with
15 you. So...
16 Q. So what happens after you do
17 the walkthrough?
18 A. Usually go back to wherever
19 they've assigned us to work, a conference
20 room typically. And wait for them to
21 bring the records and things that we had
22 requested.
23 Q. And then you would review
24 the records?

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1 A. Mm-hmm, that's correct.
2 Q. And then what would you do?
3 A. Well, once we review the
4 records, there's typically other parts of
5 the audit. We would go back and test the
6 doors to the cage and the vault. Make
7 sure everything was constructed as it's
8 supposed to be, and is secured and
9 operating the way it should. We do
10 different walkthroughs as part of the
11 audit.
12 Q. Okay.
13 A. Inspect the security.
14 Q. After that, what would you
15 do?
16 A. Complete the review of the
17 records. And then at end of the audit we
18 would conduct an exit meeting and go over
19 our observations with the management
20 team.
21 Q. Then you would go home?
22 A. Go home.
23 Q. Okay. How long does the
24 audit take from start to finish?

<p style="text-align: right;">Page 46</p> <p>1 A. At that time probably close 2 to a full week. We would usually start 3 on Monday and finish either Thursday 4 afternoon or Friday morning. 5 Q. You said we. Did you have a 6 team of people that went with you? 7 A. No. Typically it was just 8 one auditor. Sometimes it would be two 9 depending. 10 Q. Okay. So you alone or you 11 and someone else? 12 A. Typically, yeah. Typically 13 alone. 14 Q. Do you remember anyone else 15 that accompanied you on any audits? 16 A. No, I don't. 17 Q. So you said, we talked about 18 the walk through and documenting your 19 findings. 20 Would you then document 21 things after that week was over or you'd 22 be doing it along the way while you were 23 in the offices at the facility? 24 A. Well, each auditor -- each</p>	<p style="text-align: right;">Page 48</p> <p>1 report shared with anyone in corporate as 2 well? 3 A. Yeah. I mean I had to go 4 over that with my boss to make sure that 5 he was okay with any of the observations 6 and had any comments about, you know, 7 whether they should be revised in any way 8 or... 9 Q. You'd go over that with him 10 before you shared it with the 11 distribution center? 12 A. Yeah. 13 Q. Do you know if the report 14 was filed in any centralized location at 15 the company? 16 A. At that time, I'm not really 17 sure. I don't recall how those were 18 maintained. 19 Q. How frequently did you -- 20 what -- how frequently would an audit be 21 conducted at a specific distribution 22 center? 23 A. For the most part, pretty 24 much every year. Usually annual basis.</p>
<p style="text-align: right;">Page 47</p> <p>1 auditor may have done things a little 2 differently. So it wasn't a standardized 3 process. So, but, you know, typically go 4 back to the office, collect all the notes 5 and observations, and then create a 6 report. 7 Q. And was that report 8 completed at the end of the week? 9 A. Typically within a two-week 10 period. 11 Q. Okay. So within two weeks 12 after you started the audit, you'd have 13 to report complete? 14 A. Yes. It would be called a 15 preliminary report. 16 Q. Then what did you do with 17 the preliminary report? 18 A. That would get issued to the 19 audited -- audited entity. And then they 20 would be given a certain amount of time 21 to provide corrective action responses 22 for any of the observations, written 23 corrective action responses. 24 Q. And was this preliminary</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. Was there some -- okay. Was 2 there some sort of regular schedule in 3 which they would be conducted? 4 MS. McCLURE: Objection to 5 form. You can answer. 6 THE WITNESS: Yeah, I -- I 7 don't recall exactly. 8 BY MR. PIFKO: 9 Q. But generally, once a year 10 for every facility? 11 A. Yes. 12 Q. Do you remember how many 13 other people had the same job as you at 14 that time? 15 A. As I recall, I think there 16 were about three or four of us. I can't 17 remember exactly. 18 Q. So at some point you 19 transitioned out of that role, correct? 20 A. That's correct. 21 Q. What was your role after 22 that? 23 A. I think it was as director. 24 And that was when I moved to corporate.</p>

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1 Q. You were director. So you
2 were still in regulatory affairs, you
3 just moved from manager to director?
4 A. I believe so.
5 Q. At some point you moved away
6 from Orlando, correct?
7 A. Yes.
8 Q. Was it at the time when you
9 moved from manager to director?
10 A. I believe so, yeah.
11 Q. And when was that?
12 A. It was, I believe, October
13 2002.
14 Q. Do you know if there was a
15 written policy about the annual audit
16 requirement?
17 A. I believe so, yes.
18 Q. Do you know if there was
19 like a policy number associated with the
20 policy?
21 A. Well, let me -- let me step
22 back. I don't -- I'm not sure there was
23 a written policy that -- that stated that
24 it was an annual inspection. But there

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1 was a written -- written policy on
2 conducting the audits.
3 Q. Okay.
4 A. I don't think it had
5 anything -- I don't think it specified
6 the frequency.
7 Q. And do you remember if there
8 was a policy number for that policy?
9 A. I can't remember the policy
10 number. But there is a policy.
11 Q. When you were manager of
12 regulatory -- when you were regulatory
13 affairs manager, did you have any other
14 job responsibilities besides conducting
15 these audits?
16 A. Yes, I just can't remember
17 what they were at the time. It was
18 basically providing regulatory assistance
19 if there were questions or anything like
20 that from the field.
21 Q. So that -- you were one of a
22 few people that someone could call if
23 they had a compliance question?
24 A. Yes.

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1 Q. Was there a hotline or how
2 would people know how to call -- how to
3 call you?
4 A. I -- I don't remember. I
5 think they -- you know, I'm sure -- no, I
6 don't even want to speculate. I don't
7 remember.
8 Q. Did you have a mobile phone
9 at that time?
10 A. Oh gosh. I don't think so.
11 Q. You worked out of your --
12 your house at that time?
13 A. From?
14 Q. 2000 to 2002?
15 A. 2000 to 2002, yes.
16 Q. So if you had a business
17 call, they would call your house?
18 A. I don't remember.
19 Q. Did you have a separate
20 office in your house where you would
21 work?
22 A. Yeah.
23 Q. Okay. Do you know -- did
24 you have a separate line for doing work

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1 versus your personal line?
2 A. I can't remember if it was a
3 separate line or not.
4 Q. Okay. But do you know if
5 you had e-mail at that time?
6 A. I believe so.
7 Q. Okay. So when you fielded
8 questions about compliance issues, would
9 those be raised to you by e-mail, or by
10 phone or both?
11 A. Probably both.
12 Q. Okay. Do you recall
13 handling compliance inquiries from your
14 home office?
15 A. I don't remember.
16 Q. Do you know if there is some
17 sort of written documentation that listed
18 you as a contact person for compliance
19 questions?
20 A. There could have been, but
21 I'm not sure.
22 Q. Do you have any idea how
23 someone would know that they could call
24 you if they had a compliance question?

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1 A. I assume they had my contact
2 information. I just don't remember
3 exactly what form that was in or whether
4 it was a policy or a sheet or what.
5 Q. Okay. Do you know if there
6 was a company directory?
7 A. I think so.
8 Q. Did you have business cards
9 when you were conducting these audits?
10 A. I think so. But I'm not
11 positive.
12 Q. Did you give people, when
13 you met the distribution center manager,
14 did you give them your business card?
15 A. I think so. But I don't
16 recall 100 percent of the time.
17 Q. Was your name on the audit
18 report?
19 A. Yes.
20 Q. Did you sign it?
21 A. I don't think I signed them,
22 no. But it had my name on them.
23 Q. Do you know if the audit
24 report had your contact information,

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1 e-mail or phone number?
2 A. I think so. Yeah, I believe
3 it did.
4 Q. Do you recall that --
5 telling the distribution center managers
6 as part of your process, that if they had
7 questions about compliance, they could
8 call you?
9 A. I don't specifically recall
10 telling them that, but that would make
11 sense.
12 Q. So in 2002 you are promoted
13 to regulatory affairs director, correct?
14 A. I believe so.
15 Q. Okay. And you moved to
16 Chesterbrook, Pennsylvania, correct?
17 A. That's correct.
18 Q. Who did you report to at
19 that time?
20 A. Rodney Bias.
21 Q. And did Rodney get a
22 promotion at that same time?
23 A. I don't think so, no.
24 Q. Do you know what Rodney's

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1 title was at that time?
2 A. You know what, he may have
3 been director. Maybe it was -- maybe I
4 was manager when I went up there. I
5 don't -- I don't distinctly remember the
6 titles. They changed so much.
7 Q. Okay. But you got promoted
8 in 2002.
9 A. Right.
10 Q. And you moved to the
11 headquarters in Pennsylvania?
12 A. That's correct.
13 Q. How did your -- well, what
14 were your job responsibilities when you
15 got promoted in 2002?
16 A. I supervised the -- the team
17 that did the audits for the most part.
18 Q. Did you provide training to
19 the team that did the audits at that
20 time?
21 A. Yes.
22 Q. Did anyone else provide
23 training?
24 A. I'm sure they do -- did, but

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1 I don't remember who. Again, we had
2 training every year.
3 Q. I guess I'm specifically
4 speaking about the audits, the audit
5 process. Do you know if you -- if you
6 were the only person who provided
7 training to regulatory affairs people who
8 were conducting audits?
9 A. I don't think it was just
10 me. Maybe one of the more experienced
11 auditors would also train them.
12 Q. Do you know any of the names
13 of the people that you're referring to as
14 more experienced auditors?
15 A. Yes. There was a lady named
16 Jan Black. She was probably the most
17 experienced auditor.
18 Q. Anyone else?
19 A. No.
20 Q. Where was Jan Black located
21 physically?
22 A. She worked out of
23 Charleston, South Carolina.
24 Q. Did you interact with her in

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1 person?
2 A. Yes.
3 Q. Okay. Did you do that in
4 Pennsylvania?
5 A. Most -- for the most part,
6 yes.
7 Q. So she would come to
8 Pennsylvania to meet with people --
9 A. For conferences and meetings
10 and so forth.
11 Q. So you supervised the
12 auditors when -- when you got promoted.
13 Anything else you did?
14 A. That's all I can recall.
15 Q. Did you have -- and part of
16 that supervision of the auditors included
17 training them, correct?
18 A. Training them, yes.
19 Q. Did you have written
20 documentation that you used when you were
21 training the auditors?
22 A. I don't believe so, I don't
23 believe so. It was pretty much on -- you
24 know, we would go out on training audits

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1 and observe them going through the audit
2 process and provide assistance to them.
3 Q. Okay. So it wasn't like a
4 formal class or office conference room
5 setting --
6 A. No.
7 Q. -- it would just be like
8 on-the-job training, you would go with
9 them and walk them through the process?
10 A. That's correct.
11 Q. Was there -- was each
12 auditor assigned to a specific region?
13 A. I think so. Yes.
14 Q. Okay. And we -- we talked
15 earlier about you had some sort of
16 regional assignment when you were an
17 auditor, but you don't remember when it
18 was?
19 A. I don't --
20 MS. McCLURE: Objection,
21 misstates the testimony. You can
22 answer.
23 THE WITNESS: I don't
24 remember.

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1 BY MR. PIFKO:
2 Q. How many auditors -- did the
3 auditors, when you were -- when you were
4 promoted in 2002, did the auditors report
5 to you?
6 A. Yes.
7 Q. Okay. How many were there
8 at that time?
9 A. I think there were three or
10 four. I can't remember the number. It's
11 changed over the years.
12 Q. Did you receive any
13 additional training from somebody else
14 when you moved into that new role in
15 2002?
16 A. No. Just -- no.
17 Q. Did you provide performance
18 evaluations of the auditors who reported
19 to you?
20 A. I believe so.
21 Q. Was there a document that
22 you used to evaluate their performance?
23 A. I'm sure there would be,
24 yes.

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1 Q. But you don't remember?
2 A. I don't remember exactly
3 what the document is, because again those
4 things change over time. I don't
5 remember what the process was in that --
6 during that time period.
7 Q. How frequently did you
8 review the auditor's performance?
9 A. Well, there's a formal
10 performance review that I believe was
11 every year. But it was ongoing.
12 Q. Was there a way to write
13 someone up if you were not satisfied with
14 the way they were performing?
15 A. Yes.
16 Q. Okay. Is there an official
17 name for the document that you would
18 write them up on?
19 A. I don't remember what it
20 would be.
21 Q. Okay. Do you remember doing
22 that from time to time?
23 A. Not specifics, but I'm sure
24 I did.

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1 Q. What -- do you remember what
2 the consequences are if you wrote someone
3 up?
4 A. Our company had a
5 progressive discipline par -- policy, so
6 it depended on what the issue was.
7 Typically, it's a verbal to start with,
8 then a written. And then it could be a
9 second written. It just depends on what
10 it is.
11 Q. Okay. Could someone be
12 terminated if they had in -- consistency
13 poor performance?
14 A. They could.
15 Q. Did anyone ever review your
16 performance on the job?
17 A. Yes.
18 Q. Okay. Did you ever receive
19 a poor performance review?
20 A. I don't recall ever
21 receiving a poor performance review.
22 Q. Do you ever -- ever remember
23 having a verbal warning from someone
24 about your performance?

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1 A. I don't recall having one.
2 Q. How long were you -- you
3 said it was director, but then you
4 weren't sure if maybe it was manager.
5 The role that you took in 2002, how long
6 were you in that role?
7 A. I don't remember when I was
8 promoted again. But it was probably
9 sometime around after 2007, I think.
10 Q. What was your role then?
11 A. I think it was -- I believe
12 it was director. And I just can't
13 remember when I was promoted to senior
14 director. There's been so many changes
15 over the years. I don't remember the
16 titles and exactly when.
17 Q. So at some point you were
18 director. And then at some point you
19 were senior director, correct?
20 A. Mm-hmm, that's correct.
21 Q. Okay. But you distinctly
22 remember a promotion in 2007?
23 MS. McCLURE: Objection.
24 THE WITNESS: No.

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1 BY MR. PIFKO:
2 Q. Okay. I asked you when you
3 were promoted from the position that you
4 were in in 2002. Do you recall me asking
5 that? And you said around 2007.
6 MS. McCLURE: Objection.
7 THE WITNESS: Again, I don't
8 remember.
9 BY MR. PIFKO:
10 Q. Well, do you remember we
11 talked earlier about your trying to
12 provide your best recollection. What's
13 your best recollection of the time when
14 you were promoted from the position that
15 you started in in 2002?
16 MS. McCLURE: You can
17 provide your best recollection.
18 But I'm going to counsel the
19 witness not to speculate.
20 THE WITNESS: I can't. I
21 just don't remember, you know,
22 when that change happened.
23 BY MR. PIFKO:
24 Q. Okay. You said earlier

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1 something about 2007. What struck out
2 about that time for you?
3 A. My responsibilities, you
4 know, increased.
5 Q. Okay. So regardless of the
6 title. At some point around 2007, your
7 responsibilities increased, correct?
8 A. That's correct.
9 Q. Okay. What were your
10 increased responsibilities at that time?
11 A. Developing the -- enhancing
12 the order monitoring program.
13 Q. Was there something that
14 happened that caused you to remember the
15 year 2007?
16 A. Mm-hmm.
17 Q. What's that?
18 A. That was when we had the
19 suspension of our registration at the
20 Orlando facility.
21 Q. Do you know if the company
22 entered into a settlement with the DEA at
23 that time in connection with the
24 suspension?

<p style="text-align: right;">Page 66</p> <p>1 A. Yes, they did.</p> <p>2 Q. Okay. I'm handing you</p> <p>3 what's been previously marked as</p> <p>4 Zimmerman Exhibit 5. Have you seen this</p> <p>5 before?</p> <p>6 A. I have, yes.</p> <p>7 Q. Is this -- this the</p> <p>8 settlement agreement to which we were</p> <p>9 just discussing?</p> <p>10 A. Yes, I believe it is.</p> <p>11 Q. Okay. Is there a date on</p> <p>12 there?</p> <p>13 A. The day that it was signed?</p> <p>14 Q. Yeah.</p> <p>15 A. Yeah. It looks like June of</p> <p>16 2007, June 22nd.</p> <p>17 Q. So there was a shift in your</p> <p>18 responsibilities as a result of that</p> <p>19 settlement, correct?</p> <p>20 A. That's correct.</p> <p>21 Q. And you said at that time</p> <p>22 you took over the responsibility of</p> <p>23 developing and enhancing the company's</p> <p>24 order monitoring program, correct?</p>	<p style="text-align: right;">Page 68</p> <p>1 settlement agreement, correct?</p> <p>2 A. It was a different program,</p> <p>3 yes.</p> <p>4 Q. Okay. So I'm just saying if</p> <p>5 I call it the pre-2007 order monitoring</p> <p>6 program, can we have a common</p> <p>7 understanding that that means the program</p> <p>8 that was in place before the new one that</p> <p>9 you developed from the settlement</p> <p>10 agreement?</p> <p>11 A. I think so, yes.</p> <p>12 Q. Okay. So the pre-2007 order</p> <p>13 monitoring program, you had familiarity</p> <p>14 with that program, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. How did you come to</p> <p>17 be familiar with that program?</p> <p>18 A. Just as part of my job</p> <p>19 responsibilities, my boss helped develop</p> <p>20 that program, Chris Zimmerman.</p> <p>21 Q. Okay. When did Chris</p> <p>22 Zimmerman become your boss?</p> <p>23 A. In -- well, he -- at the --</p> <p>24 you mean my direct boss?</p>
<p style="text-align: right;">Page 67</p> <p>1 A. Or overseeing the</p> <p>2 development of it.</p> <p>3 Q. Okay. Over -- so you were</p> <p>4 in charge of overseeing the development</p> <p>5 of the order monitoring program?</p> <p>6 A. Of the enhancement of it,</p> <p>7 yes.</p> <p>8 Q. Okay. Did the company have</p> <p>9 an order monitoring program prior to</p> <p>10 2007?</p> <p>11 A. Yes.</p> <p>12 Q. Are you familiar with what</p> <p>13 the company's order monitoring program</p> <p>14 was prior to 2007?</p> <p>15 A. Yes.</p> <p>16 Q. How did you come to be</p> <p>17 familiar with the company's -- can I just</p> <p>18 call it the pre-2007 order monitoring</p> <p>19 program for that --</p> <p>20 A. Fine with me.</p> <p>21 Q. If I use that term, can</p> <p>22 we -- can we agree that that means the</p> <p>23 program that was in place prior to the</p> <p>24 program that was developed from the</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Well --</p> <p>2 A. Or -- he was the head of the</p> <p>3 department at the time of the merger,</p> <p>4 became the head of the department.</p> <p>5 Q. Okay. Let's go through some</p> <p>6 of those details.</p> <p>7 A. Okay.</p> <p>8 Q. Rodney Bias was your</p> <p>9 supervisor --</p> <p>10 A. That's correct.</p> <p>11 Q. -- for a time period?</p> <p>12 A. Mm-hmm.</p> <p>13 Q. Then you moved to the</p> <p>14 headquarters in 2002. And you said</p> <p>15 Rodney was still your supervisor at that</p> <p>16 time?</p> <p>17 A. Yes. Yes.</p> <p>18 Q. Okay. At some point there</p> <p>19 was another corporate merger, correct?</p> <p>20 A. Not after 2002, I don't</p> <p>21 believe.</p> <p>22 Q. The only ones that we've</p> <p>23 discussed -- maybe it's in your head but</p> <p>24 we haven't discussed it.</p>

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1 A. All right.
2 Q. So we talked about some of
3 the earlier iterations of the company.
4 But at some point Amerisource merged with
5 the Bergen Corporation, correct?
6 A. That's correct.
7 Q. And do you know on or around
8 when that was?
9 A. Yeah, it was 2001.
10 Q. And that's while you were
11 serving as regulatory affairs manager,
12 correct?
13 A. That's correct.
14 Q. Did anything about your job
15 change after that merger, in that -- in
16 that immediate time period?
17 A. I don't recall, because I
18 was already working for corporate so.
19 Q. So you were a regulatory
20 affairs manager from 2000 to 2002. And
21 halfway through that period there was a
22 merger between Amerisource and the Bergen
23 Corporation, correct?
24 A. That's correct.

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1 Q. Okay. And you don't
2 remember anything dramatic changing about
3 your job during that time period?
4 A. I don't remember anything
5 dramatic, no.
6 Q. And then in 2002, you moved
7 to the headquarters in Pennsylvania. And
8 at that time, it was the
9 AmerisourceBergen Corporation that we
10 know today, correct?
11 A. Yes. That's correct.
12 Q. Okay. And Rodney Bias was
13 still your manager in 2002, correct?
14 A. Yes.
15 Q. At some point he wasn't your
16 manager, correct?
17 A. Yes.
18 Q. Do you remember who the next
19 person who you reported to was?
20 A. That would have been Chris
21 Zimmerman, yeah.
22 Q. Okay. Do you have a
23 recollection about when you started
24 reporting directly to Chris Zimmerman?

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1 A. No, I don't remember exactly
2 when it was, but Rodney Bias left the
3 company and I was promoted to his
4 position.
5 Q. Okay. And that was -- but
6 that was before 2007?
7 A. Yes.
8 Q. Okay. So maybe that's in
9 your mind when you moved from manager to
10 director, it was sometime between 2002
11 and 2007?
12 A. I believe so.
13 Q. Okay. And at that time you
14 started reporting directly to Chris
15 Zimmerman?
16 A. That's correct.
17 Q. Chris Zimmerman came to the
18 company through the Bergen Corporation,
19 correct?
20 A. That's correct.
21 Q. Okay. Prior to -- well,
22 when was the first time that you met
23 Chris Zimmerman?
24 A. I think it was -- it was

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1 sometime in 2001. It might have been
2 right after the merger. I remember him
3 coming to Orlando, because I think I was
4 still working there then. And I remember
5 meeting him there, at the distribution
6 center. He came for a visit.
7 Q. Okay. So when he assumed
8 his new role at the merged corporation,
9 one of the things he did was come to the
10 Orlando facility?
11 A. I believe so.
12 Q. And in connection with that
13 visit was the first time you met him?
14 A. Mm-hmm, yes.
15 Q. Okay. And then you started
16 reporting to him sometime in between 2002
17 and 2007, correct?
18 A. I believe that's correct.
19 Q. Okay. After you started
20 reporting to him, did you have any
21 involvement with the order monitoring
22 program?
23 A. After I started reporting?
24 Q. Immediately after you

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1 started reporting to him.
2 A. Yes.
3 Q. Okay. And what was the
4 nature of your involvement with the order
5 monitoring program at that time?
6 A. It was just because it was
7 part of regulatory compliance. It was
8 part of my job responsibilities to make
9 sure that we were reporting.
10 Q. When you say reporting, what
11 do you mean?
12 A. Reporting suspicious orders
13 to DEA.
14 Q. When was the first time that
15 you recall becoming familiar with the
16 idea of reporting suspicious orders to
17 the DEA?
18 A. Way back when I was in
19 Chattanooga as an operations manager.
20 Q. Okay. And you just
21 testified that it was part of your job to
22 ensure that the company was reporting
23 suspicious orders to DEA, correct?
24 A. That we were complying with

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1 the requirement, yes.
2 Q. When did you first
3 understand that to be part of your job?
4 A. Probably sometime after I
5 moved to the corporate office.
6 Q. Sometime after 2002?
7 A. Yes.
8 Q. So you said that Chris
9 Zimmerman developed the pre-2007 order
10 monitoring program, correct?
11 A. Well, it was developed by
12 Bergen. He oversaw the development, but
13 I don't think he personally developed the
14 program.
15 Q. Okay. Did Amerisource have
16 an order monitoring program prior to the
17 merger with the Bergen Corporation?
18 A. Yes.
19 Q. Are you familiar with what
20 the program was?
21 A. I don't recall.
22 Q. Did you have any role in
23 carrying out any attributes of the
24 program when you were at the Amerisource

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1 Corporation?
2 A. I don't recall what it was.
3 Q. Did you ever receive any
4 training from anyone in the time when you
5 were just at the Amerisource Corporation
6 about the order monitoring program?
7 A. I don't remember.
8 Q. Sitting here today, can you
9 describe anything about the Amerisource
10 order monitoring program?
11 A. I can't remember specifics.
12 Q. Have you ever heard the term
13 "threshold"?
14 A. Yes.
15 Q. Do you know what that means?
16 A. What "threshold" means?
17 Basically, yes.
18 Q. What's your understanding of
19 what the term "threshold" means?
20 A. Basically it's a trigger.
21 Q. A trigger for what?
22 A. Well, as -- as it relates to
23 suspicious order reporting? Is that what
24 you're asking?

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1 Q. I'm asking for your
2 understanding. So you tell me.
3 A. Well, just the word
4 "threshold" --
5 Q. Okay. Fair enough. We're
6 talking about the order monitoring
7 program.
8 A. Okay.
9 Q. So do you have an
10 understanding that threshold has a
11 meaning within the idea of an order
12 monitoring program?
13 A. Yes, it does.
14 Q. Okay. And what's your
15 understanding of what a threshold is in
16 the context of an order monitoring
17 program?
18 A. A threshold would be a
19 quantity of controlled substances,
20 depending on what drug family it is that
21 is being ordered that would trigger an
22 order to be reviewed.
23 Q. And reviewed for what?
24 A. Reviewed to determine

<p style="text-align: right;">Page 78</p> <p>1 whether it would be considered suspicious 2 or not. 3 Q. I'm talking about just the 4 time before Amerisource merged with the 5 Bergen Corporation. Do you know if 6 Amerisource's ordering monitoring program 7 used thresholds? 8 A. I don't think so. 9 Q. You don't think it did? 10 A. I don't think so. 11 Q. Do you have any idea of what 12 the criteria were under the Amerisource 13 order monitoring program for reviewing an 14 order to determine whether it was 15 suspicious? 16 A. To the best of my 17 recollection it was just a percentage. 18 It was a formula that I think had been 19 provided by the trade association or 20 something back in the day, or from DEA. 21 I can't remember where the formula came 22 from. But it was looking at a percentage 23 of that customer's orders, if it exceeded 24 a certain percentage of their normal</p>	<p style="text-align: right;">Page 80</p> <p>1 have you heard of ARCOS? 2 A. Yes, I do. 3 Q. Okay. So under ARCOS, a 4 distributor is required to report all 5 orders to the DEA, correct? 6 A. No. That's not correct. 7 Q. Of controlled -- sorry, 8 I'm -- I'm making assumptions in my 9 question there. 10 Of controlled substances, 11 certain identified controlled substances, 12 all orders must be reported to DEA 13 through the ARCOS program, right? 14 A. All ARCOS required -- all 15 ARCOS reportable controlled substances, 16 yes. 17 Q. Okay. And so when we are 18 talking about this, again we are just 19 talking about the Amerisource -- prior to 20 the Amerisource and Bergen Corporation 21 merger -- 22 A. Mm-hmm. 23 Q. -- and we talked about 24 exceeding some sort of percentage of that</p>
<p style="text-align: right;">Page 79</p> <p>1 monthly purchase of that drug, that it 2 would be flagged. 3 Q. Okay. Then it would be 4 flagged as suspicious? 5 A. On the report. 6 MS. McCLURE: Objection. 7 THE WITNESS: I'm not sure. 8 I don't think it was flagged as 9 suspicious. 10 BY MR. PIFKO: 11 Q. Okay. It would be flagged 12 for review? 13 A. Just flagged for -- for a 14 report to be sent to DEA. 15 Q. Okay. And reported -- 16 A. This is -- we're still 17 talking about the Amerisource days, 18 right? 19 Q. Yes. Reported to DEA as 20 what? 21 A. I don't remember what -- how 22 it was reported. Possible -- possible 23 suspicious order or something like that. 24 Q. Okay. You understand --</p>	<p style="text-align: right;">Page 81</p> <p>1 month's order and reporting to DEA. 2 We're -- we're talking about a report 3 that has nothing to do with ARCOS, right? 4 We are talking about a separate report, 5 correct? 6 A. Yes. 7 Q. Okay. And you don't know 8 what that report is, but it's in 9 connection with some sort of suspicious 10 order, regulations or requirements? 11 A. As I recall, yes. 12 Q. Okay. Do you recall if 13 Amerisource, pre-Amerisource and Bergen 14 merger, had any other criteria for 15 evaluating whether an order was 16 suspicious? 17 A. Yes. 18 Q. What were those criteria? 19 A. We had a posting that we 20 required, that was required to be posted 21 in the cage and vault that had quantities 22 listed that -- for order fillers at the 23 time, that they could also -- you know, 24 we didn't want to rely totally on the</p>

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1 computer system to identify an order that
 2 could be potentially suspicious. So
 3 there were base -- I think it was base
 4 quantities that an order filler could
 5 review to see if it might be considered
 6 suspicious. I don't remember what it was
 7 called.
 8 Q. Okay. So there's base
 9 quantities and then some sort of
 10 percentage over that customer's months --
 11 prior month's order that could lead an
 12 order to be reported to the DEA as
 13 suspicious, is that correct?
 14 MS. McCLURE: Objection to
 15 form.
 16 THE WITNESS: I think so. I
 17 don't remember how that -- I think
 18 it was a monthly report, but I
 19 don't remember exactly.
 20 BY MR. PIFKO:
 21 Q. When you say a monthly
 22 report, you mean the -- the reporting to
 23 DEA was -- was monthly or --
 24 A. No. There was a report sent

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1 to DEA monthly.
 2 Q. Okay. So there's some kind
 3 of suspicious order report sent to the
 4 DEA every month?
 5 MS. McCLURE: Objection.
 6 Form.
 7 THE WITNESS: Again, I'm not
 8 sure what it was called. But it
 9 was a report that was sent to the
 10 DEA I believe every -- I believe
 11 every month.
 12 BY MR. PIFKO:
 13 Q. Okay. And again, for
 14 clarity, this is separate than the ARCOS
 15 reporting, correct?
 16 A. Yes.
 17 Q. Okay. And so for an order
 18 to be included in this report to the DEA,
 19 in the pre, before the merger between
 20 Amerisource and the Bergen Corporation,
 21 it could exceed some absolute number that
 22 was posted in the cage or it would exceed
 23 that customer -- some percentage of that
 24 customer's prior order, correct?

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1 A. That's correct.
 2 Q. If an order was included in
 3 this monthly report that you're talking
 4 about that was sent to the DEA, did the
 5 company still ship the order?
 6 A. At that time I believe so,
 7 for the most part.
 8 Q. What would be the exception?
 9 A. I think in some cases they
 10 may have called a customer. It depends
 11 on how late in the day it was, and ask a
 12 question about it. And if it was unusual
 13 for some reason, they may cancel the
 14 order. But for the most part they were
 15 shipped.
 16 Q. Okay. Then 2002, you moved
 17 to the headquarters and you start at some
 18 point between 2002 and 2007 -- you start
 19 reporting to Chris Zimmerman, correct?
 20 A. That's correct.
 21 Q. So you said that
 22 Mr. Zimmerman, it was your understanding
 23 that Mr. Zimmerman oversaw the
 24 development of the suspicious order

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1 monitoring program at the Bergen
 2 Corporation; is that correct?
 3 MS. McCLURE: Objection.
 4 Form.
 5 THE WITNESS: Again, I don't
 6 know how much involved he was. I
 7 just saw his correspondence back
 8 and forth with DEA to get it
 9 approved.
 10 BY MR. PIFKO:
 11 Q. So ultimately the
 12 AmerisourceBergen Corporation decided to
 13 use the Bergen Corporation's ordering
 14 monitoring program, correct?
 15 A. That's my understanding,
 16 yes.
 17 Q. Do you have any knowledge
 18 about the decisionmaking process, about
 19 how the company came to decide to use the
 20 Bergen Corporation's order monitoring
 21 program as opposed to Amerisource's order
 22 monitoring program?
 23 A. No.
 24 Q. Do you know who might have

<p style="text-align: right;">Page 86</p> <p>1 made that decision?</p> <p>2 A. No.</p> <p>3 MS. McCLURE: Mark, at some</p> <p>4 point soon, if there's an</p> <p>5 appropriate time for a break, I</p> <p>6 appreciate that.</p> <p>7 MR. PIFKO: Yeah, we can</p> <p>8 take a break right now.</p> <p>9 MS. McCLURE: Thank you.</p> <p>10 THE VIDEOGRAPHER: We are</p> <p>11 going off the record. The time is</p> <p>12 10:49.</p> <p>13 (Short break.)</p> <p>14 THE VIDEOGRAPHER: Going</p> <p>15 back on the record. Beginning of</p> <p>16 Media File Number 2. The time is</p> <p>17 11:05.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. I believe I asked you</p> <p>20 earlier, but do you recall ever</p> <p>21 conducting an audit of the Orlando</p> <p>22 facility that had its registration</p> <p>23 revoked?</p> <p>24 A. Did you say -- can you</p>	<p style="text-align: right;">Page 88</p> <p>1 A. Probably between -- don't</p> <p>2 know for sure. I think it was between</p> <p>3 2002 and 2007. Something like that.</p> <p>4 Somewhere in that time frame.</p> <p>5 Q. And when you weren't the</p> <p>6 actual one who audited that facility, you</p> <p>7 also managed all the -- all the auditors,</p> <p>8 correct?</p> <p>9 A. After 2002, yes.</p> <p>10 Q. Okay. So whoever it was</p> <p>11 that audited the facility was a direct</p> <p>12 report to you, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. And I believe you said</p> <p>15 earlier, you -- you actually were the</p> <p>16 person who established that facility in</p> <p>17 your -- back in the old days of your</p> <p>18 original job, correct?</p> <p>19 A. As the operations manager,</p> <p>20 yes.</p> <p>21 Q. When you -- on the two</p> <p>22 occasions that you recall inspecting the</p> <p>23 Orlando facility, do you recall</p> <p>24 identifying any concerns that would lead</p>
<p style="text-align: right;">Page 87</p> <p>1 repeat that?</p> <p>2 Q. So, okay. We talked about</p> <p>3 the 2007 settlement agreement. You have</p> <p>4 a copy of that in front of you, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And that concerned --</p> <p>7 A. Yes.</p> <p>8 Q. -- an Orlando facility</p> <p>9 distribution center, correct?</p> <p>10 A. That's correct.</p> <p>11 Q. And you, you performed</p> <p>12 audits of the company's distribution</p> <p>13 centers, correct?</p> <p>14 A. That's correct.</p> <p>15 Q. And did you ever audit the</p> <p>16 Orlando facility?</p> <p>17 A. Yes. Yeah.</p> <p>18 Q. How many occasions do you</p> <p>19 recall auditing the Orlando facility?</p> <p>20 A. I think two. But I'm not --</p> <p>21 I'm not 100 percent positive. But I</p> <p>22 think two times.</p> <p>23 Q. Do you remember when that</p> <p>24 was?</p>	<p style="text-align: right;">Page 89</p> <p>1 you to believe that the registration for</p> <p>2 that facility would be in jeopardy?</p> <p>3 MS. McCLURE: Objection to</p> <p>4 form. You can answer.</p> <p>5 THE WITNESS: No.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. At any point when you were</p> <p>8 supervising the people that conducted the</p> <p>9 audits of that facility, did anyone bring</p> <p>10 concerns to you about the Orlando</p> <p>11 facility that would have led you to</p> <p>12 believe that its registration was in</p> <p>13 jeopardy?</p> <p>14 A. No.</p> <p>15 Q. You talked about when you</p> <p>16 were -- we talked about the audit</p> <p>17 process. And you said that when you</p> <p>18 conducted an audit, one of the parts of</p> <p>19 the process was that you had to share it</p> <p>20 with your boss before you shared it with</p> <p>21 the facility, just to go over it with</p> <p>22 them, correct?</p> <p>23 A. That's correct.</p> <p>24 Q. Was that the same policy</p>

<p style="text-align: right;">Page 90</p> <p>1 when you were supervising auditors, they 2 had to also share their reports with you 3 before they sent it to the manager of 4 that facility, is that correct? 5 A. That's correct. 6 Q. Okay. And so the audits of 7 the Orlando facility where you were not 8 the one conducting it, those would have 9 been shared with you, correct? 10 A. That's correct. 11 Q. Okay. And do you ever 12 recall seeing anything in the audit 13 reports that would have led you to 14 believe that the registration would be in 15 jeopardy for that facility? 16 A. No. 17 Q. Upon learning that the 18 registration for that facility was 19 suspended, did you revamp the audit 20 process so that you could identify those 21 issues ahead of time? 22 MS. McCLURE: Objection. 23 Miss -- foundation. 24 THE WITNESS: Repeat the</p>	<p style="text-align: right;">Page 92</p> <p>1 about what the basis was for suspending 2 the registration of the Orlando facility? 3 A. My understanding, it was for 4 excessive sales to internet pharmacies. 5 Q. And that wasn't something 6 that you were examining in connection 7 with the audit process? 8 A. We -- 9 MS. McCLURE: Objection to 10 form. You may answer. 11 THE WITNESS: We -- we -- 12 part of the audit process is to 13 ensure that the -- the DC is 14 reporting suspicious orders as 15 required by the regulation. 16 BY MR. PIFKO: 17 Q. And did -- did the audits of 18 the Orlando facility prior to the 2007 19 suspension, did they review the 20 suspicious orders coming from that 21 facilities -- coming from that facility? 22 A. As I recall, I believe the 23 suspicious orders were reported 24 centrally, from a central location. I</p>
<p style="text-align: right;">Page 91</p> <p>1 question again just so I'm sure I 2 understand what you're asking. 3 BY MR. PIFKO: 4 Q. Okay. Well, we'll -- 5 let's -- the audit process failed to 6 identify the issues that led to the 7 registration suspension, correct? 8 MS. McCLURE: Objection. 9 Assumes facts not in evidence. 10 THE WITNESS: Disagree. 11 MS. McCLURE: Foundation. 12 THE WITNESS: I disagree. 13 BY MR. PIFKO: 14 Q. Okay. So the audits did 15 identify the issues that led to the 16 registration suspension? 17 MS. McCLURE: Objection. 18 Form. 19 THE WITNESS: We audit for 20 compliance with the regulations, 21 and we were -- the DC was 22 complying with the regulations. 23 BY MR. PIFKO: 24 Q. What is your understanding</p>	<p style="text-align: right;">Page 93</p> <p>1 don't think the DC actually sent those 2 in. I think they may have been sent from 3 headquarters. But I'm not positive. But 4 it's a report. 5 Q. Okay. But the audit would 6 identify orders from that facility that 7 would have been included in the report? 8 MS. McCLURE: Objection. 9 Assumes facts not in evidence. 10 Foundation. 11 THE WITNESS: The audit just 12 ensures that they're reporting. 13 BY MR. PIFKO: 14 Q. Okay. 15 A. The company is reporting 16 from the DC. 17 Q. Okay. Just so just I 18 understand the process. The process is 19 for the DC to report them to the company. 20 And then the company sends the report to 21 the DEA? 22 A. No. That's incorrect. 23 Q. Well, you tell me. What's 24 the process?</p>

<p style="text-align: right;">Page 94</p> <p>1 A. The way I understand the 2 process at that -- at that time, was the, 3 I believe the central processing center 4 was in, based in California. And they 5 would generate the reports from there. 6 I just can't remember if 7 they were sent to the DC, to the DC to 8 send it to local office or whether they 9 were sent directly to the local DEA 10 office. 11 Q. Okay. So when you're 12 conducting the audit and you are trying 13 to ensure compliance with the suspicious 14 order requirements, what are you looking 15 at at the distribution center? 16 A. I can't recall what we were 17 looking at. I think we may have checked 18 that separately at corporate to make sure 19 that the reports were being sent. 20 Q. Okay. And do you recall at 21 any point while you were in your role as 22 a compliance auditor, either a manager or 23 as an actual auditor, checking the 24 suspicious order reports from the Orlando</p>	<p style="text-align: right;">Page 96</p> <p>1 led to that suspension? 2 A. No. 3 Q. So you believe the audit 4 process was fine even though the facility 5 had its registration suspended? 6 A. Yes. 7 Q. Was there any disciplinary 8 action taken against anyone in the 9 compliance division or department as a 10 result of the suspension of the Orlando 11 facility's registration? 12 MS. McCLURE: Objection to 13 form. 14 THE WITNESS: No, not that I 15 recall. 16 BY MR. PIFKO: 17 Q. Did you undertake to make 18 any modifications to the audit process as 19 a result of the suspension of the Orlando 20 facility's registration? 21 A. No. 22 Q. Did you know at that time 23 whether any of the other distribution 24 centers were potentially going to have</p>
<p style="text-align: right;">Page 95</p> <p>1 facility? 2 A. I don't recall. 3 Q. Do you know if anyone else 4 checked the suspicious order reports for 5 that facility? 6 MS. McCLURE: Objection. 7 THE WITNESS: I don't 8 recall. 9 BY MR. PIFKO: 10 Q. Can you recall anything 11 about what would have been done to ensure 12 that the facility was reporting and 13 identifying suspicious orders? 14 A. I can't remember how we 15 checked that. 16 Q. So it's your understanding 17 that suspicious orders were part of the 18 basis for the suspension of the 19 registration in 2007? 20 A. That's my understanding. 21 Q. At the Orlando facility? 22 A. That's my understanding. 23 Q. And so do you believe that 24 the audit process missed something that</p>	<p style="text-align: right;">Page 97</p> <p>1 their registration suspended for reasons 2 that were similar to the Orlando 3 facility? 4 MS. McCLURE: Objection. 5 THE WITNESS: At the time -- 6 I'm sorry. 7 MS. McCLURE: That's okay. 8 Objection to form. 9 THE WITNESS: At the time of 10 the Orlando suspension? 11 BY MR. PIFKO: 12 Q. Yes. 13 A. No. 14 Q. You didn't know either way? 15 A. I didn't know whether any 16 other DC had any concerns. 17 Q. But you weren't aware of any 18 concerns at the Orlando facility at that 19 time either, correct? 20 A. No. 21 MS. McCLURE: Objection. 22 You may answer. 23 THE WITNESS: Could you 24 repeat the question?</p>

<p style="text-align: right;">Page 98</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. At that time, you weren't</p> <p>3 aware of any concerns at the Orlando</p> <p>4 facility either, correct?</p> <p>5 MS. McCLURE: Objection.</p> <p>6 THE WITNESS: That's</p> <p>7 correct.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Did you change anything</p> <p>10 about the operations at the Orlando</p> <p>11 facility after its registration was</p> <p>12 suspended?</p> <p>13 A. Not immediately after, no.</p> <p>14 Q. Ultimately, you testified</p> <p>15 earlier you did supervise the development</p> <p>16 of an enhanced order monitoring program,</p> <p>17 correct?</p> <p>18 A. That's correct.</p> <p>19 Q. But that was company-wide</p> <p>20 correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. So --</p> <p>23 A. Let me correct that. That's</p> <p>24 for the AmerisourceBergen Drug Company.</p>	<p style="text-align: right;">Page 100</p> <p>1 registration with anyone?</p> <p>2 A. Yes.</p> <p>3 Q. With who?</p> <p>4 A. Internally.</p> <p>5 Q. Who internally?</p> <p>6 A. In our department --</p> <p>7 Q. Chris Zimmerman?</p> <p>8 A. -- with our company, with</p> <p>9 Chris.</p> <p>10 Q. Anyone else?</p> <p>11 A. I can't remember. Pretty</p> <p>12 much everyone in our department, we</p> <p>13 discussed what we needed to do.</p> <p>14 Q. How many people were in your</p> <p>15 department at that time?</p> <p>16 A. Maybe a dozen. I'm not</p> <p>17 sure. I don't remember.</p> <p>18 Q. And when you say your</p> <p>19 department, you mean the CSRA department?</p> <p>20 A. That's correct.</p> <p>21 Q. So let's talk about the</p> <p>22 order monitoring program that existed</p> <p>23 after the AmerisourceBergen Corporation</p> <p>24 merger, Amerisource and Bergen</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. Okay. As opposed to --</p> <p>2 A. Well, they have other</p> <p>3 subsidiaries. Yeah.</p> <p>4 Q. Okay. Is it your opinion</p> <p>5 that there was nothing wrong with the</p> <p>6 audit process at the Orlando facility?</p> <p>7 A. The audit process? No.</p> <p>8 Q. Is it your opinion that</p> <p>9 there was nothing wrong with the</p> <p>10 suspicious order identification and</p> <p>11 reporting process at the Orlando</p> <p>12 facility?</p> <p>13 A. Can you repeat that? I'm</p> <p>14 sorry.</p> <p>15 Q. Yeah. Is it your opinion</p> <p>16 that there was nothing wrong with the</p> <p>17 process of identifying and reporting</p> <p>18 suspicious orders at the Orlando</p> <p>19 facilities at that time?</p> <p>20 A. There was nothing wrong with</p> <p>21 it, no.</p> <p>22 Q. Okay. Did you ever discuss</p> <p>23 the findings of the DEA that led to its</p> <p>24 suspension of the Orlando facility's</p>	<p style="text-align: right;">Page 101</p> <p>1 Corporation merger but before 2007.</p> <p>2 Okay?</p> <p>3 A. Okay.</p> <p>4 Q. You have an understanding</p> <p>5 about what that program was?</p> <p>6 A. Basically, yes.</p> <p>7 Q. Okay. What's your</p> <p>8 understanding of how that program worked?</p> <p>9 A. I believe it was similar to</p> <p>10 the way I described the AmerisourceBergen</p> <p>11 report. There was a report that would be</p> <p>12 generated on a -- I think it was a</p> <p>13 monthly basis. I don't know if it was a</p> <p>14 daily. I don't remember if it was</p> <p>15 monthly. But it was built based on the</p> <p>16 customer's purchasing history and</p> <p>17 anything over a certain percentage would</p> <p>18 be flagged on this report. It was called</p> <p>19 a possible excessive purchase report, I</p> <p>20 believe was the name of it.</p> <p>21 Q. And then that would be sent</p> <p>22 to DEA?</p> <p>23 A. That would be sent to DEA,</p> <p>24 the individual field offices.</p>

<p style="text-align: right;">Page 102</p> <p>1 Q. And did you -- did that 2 order monitoring program use thresholds 3 as we discussed earlier? 4 A. I don't believe it used 5 thresholds, no. 6 Q. Just some percentage of the 7 customer's prior month's orders? 8 A. For each -- for each drug 9 item, I believe. 10 Q. When you say each drug item, 11 what do you mean? 12 A. I think it was -- I don't 13 want to speculate. Each drug. 14 Q. Okay. You understand that 15 we're here in a -- in connection with a 16 lawsuit about opioids, correct? 17 A. Yes. I understand that. 18 Q. Let's talk about that for 19 just a minute. 20 A. Okay. 21 Q. Do you know what an opioid 22 is? 23 A. Yes, for the most part, yes. 24 Q. What's your understanding of</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Do you know of any other 2 types of opioids? 3 A. Like, morphine, I think. 4 Yeah. There may be some others. 5 Fentanyl. Fentanyl I think is synthetic. 6 Q. Okay. So those are all 7 types of opioids, to your knowledge? 8 A. I believe so. 9 Q. Okay. And so when we talk 10 about monitoring a customer's purchase 11 history, do you know the level of -- are 12 they just -- are they monitoring 13 oxycodone purchases or hydrocodone 14 purchases? Do you have any understanding 15 of what specifically is being monitored? 16 MS. McCLURE: Objection to 17 form. 18 THE WITNESS: Are you asking 19 in relation to the enhanced 20 program? 21 BY MR. PIFKO: 22 Q. No. 23 A. Or what time frame are we 24 talking about here?</p>
<p style="text-align: right;">Page 103</p> <p>1 what an opioid is? 2 A. I believe it's basically any 3 drug that was manufactured that contains 4 some derivative of opium, I suppose. 5 Q. And so when we talked about 6 drug types that are monitored, that can 7 include opioids, correct? 8 A. Yes. 9 Q. Okay. Do you know what a 10 type -- are there different types of 11 opioids, to your knowledge? 12 MS. McCLURE: Objection to 13 form. 14 THE WITNESS: I couldn't 15 tell you. 16 BY MR. PIFKO: 17 Q. Okay. Have you heard the 18 term hydrocodone? 19 A. Yes. 20 Q. Have you heard the term 21 oxycodone? 22 A. Yes. 23 Q. Are those both opioids? 24 A. I believe so.</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. I made some visual aids to 2 help us do that. 3 A. Okay. 4 Q. All right. Do you see that 5 on the screen in front of you? 6 A. Yes, I do. 7 Q. It says, "Before DEA 8 enforcement action (before June 22, 9 2007)." 10 So right now I'm talking 11 about before that time period. 12 And I'm talking about the 13 system that was in place after the 14 merger. You don't know exactly when that 15 system was implemented, right? 16 MS. McCLURE: Objection to 17 form. 18 THE WITNESS: I don't know 19 exactly, no. 20 BY MR. PIFKO: 21 Q. Okay. But the merger was in 22 2001? 23 A. Yes. 24 Q. Okay. So there were</p>

<p style="text-align: right;">Page 106</p> <p>1 something, a company's order -- a 2 customer's order history with respect to 3 certain substances would be reviewed in 4 connection with the suspicious order 5 monitoring program? 6 MS. McCLURE: Objection to 7 form. Under what program? 8 THE WITNESS: I guess that's 9 my question. Are you talking 10 about that period? 11 BY MR. PIFKO: 12 Q. Yeah, I'm talking about 13 before the DEA enforcement action. I 14 want to -- I want to understand what -- 15 all attributes of the order monitoring 16 program that existed in that time period. 17 A. I thought I described that 18 to you. 19 Q. Okay. Well, so I was asking 20 a follow-up question, so -- 21 A. Okay. I'm sorry. You lost 22 me a little bit. 23 Q. That's okay. We'll start 24 over.</p>	<p style="text-align: right;">Page 108</p> <p>1 correct? 2 A. Yeah. I think it looked at 3 a three-month rolling average or 4 something like that. I believe it was 5 that. 6 Q. Okay. 7 MS. McCLURE: Mark, can we 8 just clarify. You are talking 9 about 2002 to 2007? Is that an 10 accurate statement of the time 11 period that you're addressing? 12 MR. PIFKO: Well, he doesn't 13 know when the -- between -- 14 MS. McCLURE: Is that 15 document under the Elmo visible on 16 the video camera? 17 Thank you. 18 MR. PIFKO: You can read my 19 writing. 20 BY MR. PIFKO: 21 Q. Okay. So we are talking 22 about post-AmerisourceBergen Corporation 23 merger but before the enforcement action. 24 Everybody clear on the time</p>
<p style="text-align: right;">Page 107</p> <p>1 How does -- how does an 2 order get considered for inclusion in 3 this report that we talked about? 4 Actually let me just back up for a better 5 record. 6 A. Okay. 7 Q. You -- you testified that 8 there's a report that would be submitted 9 to DEA. You said you didn't know if it 10 was daily, weekly or monthly. 11 A. I can't remember. 12 Q. Okay. But there is some 13 kind of report that identified certain 14 types of orders and -- and was sent to 15 DEA, correct? 16 A. That's correct. 17 Q. Okay. And then we are 18 talking about the process for how an 19 order is included in that report. Okay? 20 A. I understand. Yeah. 21 Q. Okay. So you said that the 22 company looks at whether the order is 23 over some percentage of the customer's 24 prior order over that month. Is that</p>	<p style="text-align: right;">Page 109</p> <p>1 period here? 2 A. Right. 3 Q. All right. So an order that 4 exceeds some percentage of the customer's 5 order history over the prior three 6 months. You don't know the percentage. 7 But that order gets included in this 8 report to the DEA, correct? 9 A. That's my understanding. 10 Q. And when we talk about 11 exceeding a percentage, a percentage 12 of -- of what? That's what I'm -- that's 13 what we were talking about earlier. 14 A. My understanding, it was -- 15 it's a percentage above their average 16 purchase of that drug over the 17 three-month period. 18 Q. Okay. And so like there's 19 different drugs, right? Like -- 20 A. Mm-hmm. 21 Q. -- OxyContin is a drug. 22 Duragesic is a drug. 23 A. That's correct. 24 Q. Is it your understanding</p>

<p style="text-align: right;">Page 110</p> <p>1 that the -- in that program the actual 2 purchase of that drug over the 3 three-month period was measured or it was 4 just within a drug family? 5 A. I think it was a specific 6 drug. 7 Q. Okay. 8 A. I believe. 9 Q. Okay. And then if it 10 exceeded some percentage, it would get 11 included in this report to the DEA, 12 correct? 13 A. That's my understanding. 14 Q. Do you know if there was any 15 documentation other than the report to 16 the DEA -- 17 MS. McCLURE: Objection. 18 BY MR. PIFKO: 19 Q. -- about an order that was 20 included in this report? 21 MS. McCLURE: Objection to 22 form. 23 THE WITNESS: I don't think 24 so.</p>	<p style="text-align: right;">Page 112</p> <p>1 THE WITNESS: I don't -- I 2 don't know for sure. 3 BY MR. PIFKO: 4 Q. If there was any due 5 diligence, do you know if there would 6 have been any documentation of any due 7 diligence that would have been conducted? 8 MS. McCLURE: Objection. 9 Form. 10 THE WITNESS: I don't recall 11 exactly when, you know, we did due 12 diligence investigations, but they 13 would have been documented if we 14 did any. 15 BY MR. PIFKO: 16 Q. Okay. So if -- 17 A. If and when we did any. 18 Q. -- if any due diligence -- 19 okay. So if any due diligence 20 investigation was conducted, it would 21 have been documented, correct? 22 A. Yes. That's my 23 understanding. 24 Q. And do you have an</p>
<p style="text-align: right;">Page 111</p> <p>1 BY MR. PIFKO: 2 Q. If an order exceeded the 3 percentage that you talked about, do you 4 know if there was any due diligence 5 conducted on that order? 6 A. When we're talk -- 7 MS. McCLURE: Objection. 8 You may answer. 9 THE WITNESS: When we are 10 talking about this DEA approved 11 program that was in place in 2002 12 to -- 13 BY MR. PIFKO: 14 Q. I'm talking about this -- 15 A. Okay. 16 Q. -- period that's on the 17 slide in front of you. 18 A. Then what's the question 19 again? I'm sorry. 20 Q. If an order exceeded the 21 percentage that you talked about, do you 22 know if there was any due diligence 23 conducted on that order? 24 MS. McCLURE: Objection.</p>	<p style="text-align: right;">Page 113</p> <p>1 understanding about the company's 2 practice of maintaining any such files? 3 MS. McCLURE: Objection to 4 form. 5 THE WITNESS: Yes. 6 BY MR. PIFKO: 7 Q. What's your understanding of 8 what the company's practice is? 9 A. We had a system we used 10 called Law Track that we would document 11 any -- any material work that we did in 12 Law Track. So that's where it would have 13 been documented. 14 Q. How long was that system in 15 place? 16 A. I don't recall. I think it 17 was in place during that period, some 18 time in that period between 2002-2007. 19 Q. Do you think it was in place 20 the entire time? 21 A. Couldn't tell you. 22 Q. Okay. Do you know how long 23 the company retained its records in Law 24 Track?</p>

<p style="text-align: right;">Page 114</p> <p>1 A. Depends on the record. 2 We -- we complied with the corporate 3 record retention policy. So it depends 4 on what records they are. 5 Q. And that's a written policy 6 somewhere? 7 A. There's a -- there's a 8 record retention policy in writing, yes. 9 Q. Okay. And you -- sitting 10 here today, you don't know what that is? 11 A. I couldn't tell you 12 specifics about every record -- every 13 type record. 14 Q. Okay. Well, right now I'm 15 talking about due diligence during the 16 time period that's on the slide in here. 17 Do you know what their record retention 18 policy was for that? 19 A. I don't. 20 Q. Okay. Do you know who David 21 May is? 22 A. Yes, I do. 23 Q. I'll represent to you that 24 he testified, it's on the slide, but I'll</p>	<p style="text-align: right;">Page 116</p> <p>1 him, and I asked him if he 2 heard -- did you hear -- 3 BY MR. PIFKO: 4 Q. Did you hear me read the 5 testimony, sir? 6 MS. McCLURE: And I'm going 7 to put my objection on the record, 8 so please let me do that before 9 you answer. Thank you. 10 You've excerpted deposition 11 testimony of David May. You have 12 excerpted eight lines of testimony 13 with absolutely zero context as to 14 what the question was, as to the 15 time period, as to what this 16 testimony is regarding. 17 There is absolutely zero 18 information in here that allows 19 him to discern what this is about. 20 So if you would like to 21 continue down this line of 22 questioning, you are free to do 23 so. 24 MR. PIFKO: You can object,</p>
<p style="text-align: right;">Page 115</p> <p>1 just read it for you. 2 He testified: "Under our 3 program and our policy and our 4 understanding of the regulation, and what 5 the regulator expects from us, is when we 6 declare an order as suspicious, it's 7 permanently rejected and never shipped." 8 Have you heard that? 9 MS. McCLURE: Mark, I'm 10 going to ask the witness to step 11 out for a moment. 12 MR. PIFKO: You can't just 13 interrupt the deposition. 14 MS. McCLURE: Or you and I 15 can step out, but I -- I'm happy 16 to -- 17 MR. PIFKO: I'm going to ask 18 him -- I'm going to ask him my 19 questions. 20 MS. McCLURE: Okay. So 21 you're -- you've shown for the 22 record -- you've shown -- 23 MR. PIFKO: I've -- I asked 24 him -- I read some testimony to</p>	<p style="text-align: right;">Page 117</p> <p>1 but you can't coach the witness 2 and inject -- 3 MS. McCLURE: That's why I 4 asked you to step out or him to 5 step out. 6 MR. PIFKO: Well, there's 7 nothing we need to step out and 8 discuss. I'm asking him -- okay. 9 I just -- 10 MS. McCLURE: You continued 11 with your questioning. I was 12 willing to have the witness step 13 out to not receive a coaching 14 objection. 15 MR. PIFKO: Okay. I'm going 16 to ask him questions, and if -- if 17 there's a proper basis for you to 18 instruct him, then you can 19 instruct him. 20 But other than that, I'm 21 going to ask him questions and you 22 can -- you can state objections. 23 Of course, you're entitled to do 24 that, but you can't coach the</p>

<p style="text-align: right;">Page 118</p> <p>1 witness. All you can do, if you 2 want to say -- I'm not going to 3 tell you what your objection can 4 be, but you can make a valid 5 objection, and that's the end of 6 it. 7 All right. 8 MS. McCLURE: So I'm going 9 to -- 10 MR. PIFKO: So you just made 11 an objection. What -- you're not 12 copying here. 13 MS. McCLURE: -- make my 14 objection up on the record, of 15 having a continuing objection to 16 any questioning -- 17 MR. PIFKO: Continuing, 18 okay. Got it. 19 MS. McCLURE: -- regarding 20 anything that's on this document, 21 on any line here. 22 MR. PIFKO: All right. 23 BY MR. PIFKO: 24 Q. All I'm asking you is --</p>	<p style="text-align: right;">Page 120</p> <p>1 said, yes. 2 Q. Okay. 3 MS. McCLURE: And I'm going 4 to note my continuing objection. 5 BY MR. PIFKO: 6 Q. Do you have an understanding 7 that if an order is identified as 8 suspicious, that it cannot be shipped? 9 MS. McCLURE: Objection to 10 form. 11 THE WITNESS: It depends on 12 what time frame you are relating 13 to and what you're referencing. 14 BY MR. PIFKO: 15 Q. Okay. Why does it depend on 16 what time frame I'm referencing? 17 A. Because DEA has changed 18 their policy over the years. 19 Q. It's your understanding that 20 the DEA has changed its policy about 21 whether you can ship a suspicious order? 22 A. It's -- that's my 23 understanding. They've changed their 24 belief.</p>
<p style="text-align: right;">Page 119</p> <p>1 okay. Do you know who David May is? 2 A. Yes, I do. 3 Q. Who is David May? 4 A. He is our VP of diversion 5 control. 6 Q. Okay. He is the head of the 7 diversion control program, correct? 8 A. That's correct. 9 Q. And he worked at the DEA for 10 over 30 years, correct? 11 A. I don't know the time frame. 12 Q. Okay. But you know he had a 13 long history with the DEA, correct? 14 A. That's my understanding. 15 Q. Okay. And I'm telling you, 16 he testified, and I'm quoting: "Under 17 our program and our policy and our 18 understanding of the regulation, and what 19 the regulator expects from us, is when we 20 declare an order as suspicious, it's 21 permanently rejected and never shipped." 22 Okay. Do you -- do you hear 23 that? 24 A. I heard -- I heard what you</p>	<p style="text-align: right;">Page 121</p> <p>1 Q. I'll show you some more 2 testimony. 3 Mr. Zimmerman testified: 4 "CSA was passed in 1970, and the" -- "the 5 federal regulations that regulate our 6 responsibilities have not changed." 7 Mr. May testified: "I'm not 8 familiar with any changes in the 9 Controlled Substance Act." 10 MS. McCLURE: So. 11 MR. PIFKO: I haven't asked 12 him a question. You can't just 13 object. 14 MS. McCLURE: You're 15 putting -- you are simply just 16 putting documents up on the Elmo 17 and making representations 18 regarding what testimony was. 19 MR. PIFKO: Obviously my 20 representations are correct, 21 because they're quotes and I'm 22 showing -- 23 MS. McCLURE: You've 24 represented that they're quotes.</p>

<p style="text-align: right;">Page 122</p> <p>1 I'm sure that you would in fact 2 put quotes on the document. So 3 I'm not questioning that, although 4 of course I don't have the ability 5 to independently verify. 6 MR. PIFKO: Okay. I haven't 7 even asked him a question. So you 8 need to let me ask my questions. 9 MS. McCLURE: Mark, I'm 10 trying -- 11 MR. PIFKO: You're 12 interrupting the deposition. 13 MS. McCLURE: You want the 14 witness to leave? 15 MR. PIFKO: You're 16 interrupting the question. If you 17 take him out, you're coaching him 18 and that's completely improper. 19 MS. McCLURE: No, I said do 20 you want the witness to leave? 21 I'm happy to take him out. I'm 22 not coaching him. 23 MR. PIFKO: No. I would 24 like to ask -- you're interrupting</p>	<p style="text-align: right;">Page 124</p> <p>1 representing answers up on the 2 screen. We don't even know what 3 the answer to the question was. 4 MR. PIFKO: It doesn't 5 matter. You don't even know what 6 my question is. 7 MS. McCLURE: Okay. So I'm 8 going to make my -- 9 MR. PIFKO: Okay. So let me 10 ask the question. 11 MS. McCLURE: -- continuing 12 objection -- 13 MR. PIFKO: Okay, continuing 14 objection all you want. 15 MS. McCLURE: -- to this 16 entire line of questioning and you 17 presenting the witness with 18 deposition testimony that is 19 absolutely without context as to 20 time period, what the witness's 21 capacity was in -- 22 MR. PIFKO: Okay. You're 23 coaching him by talking about time 24 period and things like that.</p>
<p style="text-align: right;">Page 123</p> <p>1 my ability to ask questions. 2 MS. McCLURE: Well, I'm 3 going to continue -- 4 MR. PIFKO: I haven't asked 5 the question. All I did was tell 6 him what other people testified 7 to. 8 MS. McCLURE: You 9 represented what other people 10 testified to and that's -- 11 MR. PIFKO: It's accurate 12 and true representation. I'm 13 allowed to do that. 14 MS. McCLURE: Mark -- 15 MR. PIFKO: I could say do 16 you think that David May testified 17 that his favorite color was blue. 18 MS. McCLURE: Mark -- 19 MR. PIFKO: Okay. 20 MS. McCLURE: You are 21 representing -- 22 MR. PIFKO: I haven't asked 23 a question. 24 MS. McCLURE: You are</p>	<p style="text-align: right;">Page 125</p> <p>1 MS. McCLURE: I've offered 2 him -- 3 MR. PIFKO: You're telling 4 him what to say. You're offering 5 him guidance. 6 MS. McCLURE: -- that he 7 could leave, and you haven't taken 8 me up on that, so you're putting 9 me in a position and forcing me to 10 document my objection on the 11 record. 12 BY MR. PIFKO: 13 Q. Okay. So I'm showing you 14 again sir, Mr. Zimmerman -- you know who 15 he is. He was your boss. 16 He testified, "The CSA was 17 passed in 1970 and the federal 18 regulations that regulate our 19 responsibilities have not changed." 20 And Mr. May testified, "I'm 21 not familiar with any changes in the 22 Controlled Substance Act." 23 I asked you if you 24 understood that if an order is identified</p>

<p style="text-align: right;">Page 126</p> <p>1 as suspicious, if it can be shipped. And 2 you said it depends on the time period, 3 correct? 4 A. Okay. The regulations don't 5 specify anything about shipping or not 6 shipping suspicious orders. 7 Q. What's the basis for your 8 understanding? 9 A. The regulation states that 10 we have to design and operate a program 11 to detect suspicious orders. As I 12 recall, that regulation mentions nothing 13 about whether they should be shipped or 14 not. 15 Q. Okay. So do you disagree 16 with Mr. May's testimony? 17 MS. McCLURE: Objection, 18 form. Objection, misstates 19 testimony. 20 THE WITNESS: Again, it has 21 to be in context of the time frame 22 that he's talking about. 23 BY MR. PIFKO: 24 Q. Okay. Do you agree with the</p>	<p style="text-align: right;">Page 128</p> <p>1 form. You can answer. 2 THE WITNESS: That's our 3 policy today. 4 BY MR. PIFKO: 5 Q. I'm not asking what your 6 policy is. I'm asking what your 7 understanding of the regulations are. 8 A. The regulation is we are to 9 designed and operate a system to detect 10 suspicious orders and report them. 11 Q. Okay. So is it your 12 testimony that -- okay. But is there 13 some period earlier where you believe an 14 order that was identified as suspicious 15 could be shipped? 16 MS. McCLURE: Objection to 17 form. 18 You may answer. 19 THE WITNESS: I don't know 20 the exact dates of when that 21 changed. 22 BY MR. PIFKO: 23 Q. But you believe that there 24 was some date upon which it was changed?</p>
<p style="text-align: right;">Page 127</p> <p>1 statements I showed you for Mr. Zimmerman 2 and Mr. May, that the Controlled 3 Substance Act, the law and the 4 regulations have not changed since 1970? 5 MS. McCLURE: Continuing to 6 this line of questioning. 7 Objection to form. Objection, 8 misstates testimony. 9 THE WITNESS: Well I 10 disagree with both, because one -- 11 one was about regulations, and one 12 was about the Act itself. And I 13 know the regulations have 14 changed -- changed several times 15 over the years. 16 BY MR. PIFKO: 17 Q. Okay. And so do you believe 18 there's been a change -- well, let me ask 19 you a different question. 20 Is it your understanding 21 that today, an order that's identified as 22 suspicious, cannot be shipped? 23 A. Today? 24 MS. McCLURE: Objection to</p>	<p style="text-align: right;">Page 129</p> <p>1 A. The policy of DEA changed 2 about suspicious orders. 3 Q. And whether you could ship 4 them? 5 A. I know as of 2007 we were 6 told not to ship. 7 Q. Okay. Do you believe that 8 there was any period prior to 2007 where 9 you couldn't ship a suspicious order? 10 A. Not that I know of. 11 Q. Okay. And do you know what 12 communication was from the DEA that told 13 you that you couldn't ship a suspicious 14 order? 15 A. I believe that was part of 16 our negotiations in the settlement, part 17 of the company's negotiations with DEA. 18 Q. Okay. So let's go back to 19 this time period. 20 In the company's program, in 21 this time period that's on the slide in 22 the post merger before the settlement. 23 A. Okay. 24 Q. Was it the company's</p>

<p style="text-align: right;">Page 130</p> <p>1 practice to ship an order that was 2 identified as suspicious? 3 MS. McCLURE: Objection. 4 Asked and answered. You can 5 answer. 6 THE WITNESS: The company 7 didn't identify it as a suspicious 8 order. The company created a 9 report and sent it to DEA of 10 possible excessive orders. 11 BY MR. PIFKO: 12 Q. Okay. And was it the 13 company's practice to ship all those 14 orders that were identified as 15 suspicious? 16 MS. McCLURE: Same 17 objection. 18 BY MR. PIFKO: 19 Q. Or sorry, excessive. 20 A. In most cases they were 21 shipped. 22 Q. Okay. If an order was not 23 shipped, would that have been documented? 24 A. At that time, probably not.</p>	<p style="text-align: right;">Page 132</p> <p>1 that it exceeded the customer's prior 2 three months' ordering history, would 3 that be unusual? 4 MS. McCLURE: Objection to 5 form. 6 THE WITNESS: Could be. 7 BY MR. PIFKO: 8 Q. So an order that was 9 excessive can be suspicious, correct? 10 A. Could be. 11 Q. Is there anything that would 12 make an order that's excessive not 13 suspicious? 14 MS. McCLURE: Objection to 15 form. 16 THE WITNESS: Yes. 17 BY MR. PIFKO: 18 Q. What would that be? 19 A. It could be an ordering 20 error of some sort. 21 Q. Anything else? 22 A. There's a lot of reasons. 23 The pharmacy could have been robbed and 24 all of their drugs taken and, you know,</p>
<p style="text-align: right;">Page 131</p> <p>1 Q. Probably not? 2 A. Other than the system 3 itself. The invoice would have reflected 4 the product wasn't shipped. 5 Q. What's the difference 6 between an excessive order and a 7 suspicious order? 8 A. A possible excessive order 9 would have been an order that would have 10 exceeded those parameters that were built 11 into the system to produce those reports. 12 Q. Okay. What's a suspicious 13 order? 14 A. Anything that met those 15 guidelines and the regulation that could 16 be a suspicious order. 17 Q. Do you know what those 18 guidelines are? 19 A. I couldn't recite it word 20 for word, but you know, unusual quantity, 21 size, frequency. I can't remember the 22 rest of it. I don't know the regulation. 23 I can't recite it word for word. 24 Q. If an order was excessive in</p>	<p style="text-align: right;">Page 133</p> <p>1 they are ordering an unusually large 2 quantity. 3 Q. Anything else? 4 A. Nope. Can't think of 5 anything right off the top of my head. 6 Q. Did the company in this time 7 period again on the slide, undertake any 8 effort to investigate an order that was 9 identified as excessive? 10 A. Yes. Somewhere after the 11 August of 2005 time frame we started 12 doing some additional due diligence. 13 Q. And what -- 14 A. On customers and orders. 15 Q. Okay. What was the nature 16 of that due diligence? 17 A. We started using a 18 questionnaire for customers and site 19 visits. 20 Q. Okay. How about with 21 respect to a specific order though? Was 22 there any due diligence that was 23 conducted with respect to a specific 24 order?</p>

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1 MS. McCLURE: Objection to
2 form.
3 THE WITNESS: There was,
4 yeah. Those reports would be
5 reviewed and we would do some
6 additional due diligence based on
7 some of those orders, those
8 reports.
9 BY MR. PIFKO:
10 Q. What reports?
11 A. The reports that we've been
12 talking about.
13 Q. The excessive order reports?
14 A. Yeah, the excessive order
15 reports.
16 Q. Okay. And what was the
17 nature of the due diligence that was
18 conducted?
19 A. Again, we would do -- we
20 would send out a questionnaire, and we
21 would have -- actually have the
22 salesperson go in, visit the site, and
23 have the questionnaire filled out. I
24 believe it was signed by the salesperson

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1 and the customer.
2 Q. What was in the
3 questionnaire?
4 A. Questions that we were
5 provided by DEA that they suggested that
6 we ask to customers.
7 Q. Do you remember any of the
8 types of questions?
9 A. There were 10 or 12 -- 10 or
10 12 questions. All related to internet
11 pharmacy, to ensuring that a pharmacy
12 wasn't engaged in that internet activity.
13 Q. Okay. And when did that
14 start?
15 A. I would say late 2005.
16 Sometime after August.
17 Q. I want to be clear that we
18 are talking about the right time period.
19 So I just wrote down what we talked about
20 there.
21 Okay. So we're talking
22 about this time period after August of
23 2005 but before the DEA enforcement
24 action. Okay?

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1 A. The DEA enforcement action
2 wasn't in June 2007.
3 Q. When was that?
4 A. I think the action was
5 April, probably.
6 Q. Okay.
7 A. Yeah. That was the date of
8 the settlement.
9 Q. Okay. Right. The company
10 changed its practices in connection with
11 the settlement, correct?
12 MS. McCLURE: Objection.
13 Form.
14 THE WITNESS: We changed
15 some practices after the
16 August 2005 period and then
17 changed them more after the
18 enforcement action.
19 BY MR. PIFKO:
20 Q. Okay. Right. So that's why
21 I'm book-ending this particular time
22 period.
23 A. Okay.
24 Q. So the questions that you

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1 asked of pharmacies were designed to
2 determine whether a pharmacy was an
3 internet pharmacy?
4 A. Yes.
5 Q. Did they ask any other types
6 of information?
7 A. When you say they, who are
8 you talking of?
9 Q. The questionnaire.
10 A. I -- I don't remember the
11 specific questions at the time.
12 Q. Okay. So we got on this
13 track because what I was asking was how
14 you determined whether an order that's
15 excessive is -- is suspicious and whether
16 there was any investigation or due
17 diligence that would have been conducted
18 on an order that was excessive. Okay?
19 A. Okay.
20 Q. So you testified that after
21 August 2005 there were questions that
22 were asked.
23 A. Mm-hmm.
24 Q. Were there -- those

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1 questions appear to be, as you're
2 testifying, just designed to determine if
3 something is an internet pharmacy,
4 correct?

5 MS. McCLURE: Objection to
6 form.

7 THE WITNESS: I don't -- you
8 know, I don't know if it was just
9 totally all the questions were
10 totally specific to internet
11 pharmacy. There may have been
12 other questions just to -- to try
13 to find out what, you know, what
14 the pharmacy's practices were.

15 BY MR. PIFKO:

16 Q. What, in the questionnaire,
17 would tell you if an order that was in
18 the excessive order report was
19 suspicious?

20 A. In the questions on the --
21 that wouldn't tell us an order is
22 suspicious or not.

23 Q. Okay. What investigation,
24 if any, did you conduct on an excessive

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1 order that would tell you whether it was
2 suspicious?

3 A. To the best of my
4 recollection and -- Eric would review
5 those monthly reports. And we would --
6 we were looking for specifically at the
7 time the drugs that were being used a lot
8 by the internet pharmacy which was
9 typically the hydrocodone combination
10 products. And that would be the things
11 that he would look for on those reports.
12 And then he would generate an
13 investigation of that customer based on
14 reviewing those reports, as I recall.

15 Q. Other than hydrocodone
16 combination products, was there any other
17 feature of an order that you would look
18 at to determine whether it was suspicious
19 if it was an excessive order report?

20 A. Well, again the system, it
21 looked at all controlled substances.

22 Q. An order is -- gets included
23 under the order monitoring program as an
24 excessive order. Are we on the same

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1 page? Okay?

2 A. An order that's generated on
3 that report.

4 Q. Right.

5 A. Yes. Okay. It could be any
6 controlled substance.

7 Q. Okay. In order to -- I'm
8 asking you about types of investigations
9 that were done on those orders to
10 determine whether they were suspicious.
11 And so you said that Eric looked at them
12 to see if they had hydrocodone
13 combination products in them. And
14 that's -- and then if they did, you would
15 do a further investigation, correct?

16 A. Well, I think that was a
17 primary --

18 MS. McCLURE: Objection to
19 form.

20 THE WITNESS: I'm sorry.

21 MS. McCLURE: That's okay.

22 THE WITNESS: I believe that
23 was his primary focus, but he
24 would look -- he would review the

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1 whole report is my -- as -- as I
2 recall.

3 BY MR. PIFKO:

4 Q. And you are talking about
5 Eric Cherveney, to be clear?

6 A. Yes.

7 Q. Okay. When did he start
8 doing that?

9 A. Again, it was probably
10 sometime after August of 2005. I don't
11 remember the exact date that he started
12 doing that.

13 Q. What's a hydrocodone
14 combination product?

15 A. Again, not speaking --
16 speaking as a layman, not a pharmacist
17 or -- or a chemist, but it's a
18 hydrocodone in combination with some
19 other noncontrolled product like
20 acetaminophen or aspirin or something
21 like that. That would be a combination
22 product.

23 Q. And you had an understanding
24 that those products were more likely to

<p style="text-align: right;">Page 142</p> <p>1 be the subject of diversion?</p> <p>2 MS. McCLURE: Objection.</p> <p>3 THE WITNESS: That was our</p> <p>4 understanding, that that was the</p> <p>5 drug that was most -- most likely</p> <p>6 used by the internet pharmacy.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. What was the basis of that</p> <p>9 understanding?</p> <p>10 A. Communications from DEA.</p> <p>11 Q. So the DEA told you that</p> <p>12 those products were of particular</p> <p>13 concern?</p> <p>14 A. Yes.</p> <p>15 Q. Prior to August 2005, was</p> <p>16 anybody looking at the excessive order</p> <p>17 reports to determine if they weren't</p> <p>18 suspicious?</p> <p>19 MS. McCLURE: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: I believe</p> <p>22 someone may have reviewed those,</p> <p>23 but they were -- they were sent to</p> <p>24 DEA.</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. And he was the only one who</p> <p>2 was doing that?</p> <p>3 A. I believe so at that time.</p> <p>4 Q. And I want to clarify for</p> <p>5 the record. We're talking about every</p> <p>6 order that's in the excessive order</p> <p>7 report, correct?</p> <p>8 A. That he reviewed?</p> <p>9 MR. PIFKO: Yeah.</p> <p>10 MS. McCLURE: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: I believe</p> <p>13 that's correct.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. And prior to that time, an</p> <p>16 excessive order report would include an</p> <p>17 order from any customer, correct?</p> <p>18 A. That's my understanding.</p> <p>19 Q. Not just a potential</p> <p>20 internet customer, correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And you don't have any</p> <p>23 recollection of whether anyone reviewed</p> <p>24 any excessive order reports prior to</p>
<p style="text-align: right;">Page 143</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. You -- you believe they were</p> <p>3 reviewed by someone at AmerisourceBergen?</p> <p>4 A. I don't recall.</p> <p>5 Q. So you don't know either</p> <p>6 way?</p> <p>7 A. I don't. Yeah, I don't.</p> <p>8 Q. So it's your testimony that</p> <p>9 sitting here today, you don't know if</p> <p>10 anything was done to determine that an</p> <p>11 order in the excessive order report</p> <p>12 wasn't suspicious prior to August 2005,</p> <p>13 correct?</p> <p>14 A. That's correct.</p> <p>15 Q. If there was an</p> <p>16 investigation, it would be put in the Law</p> <p>17 Track system?</p> <p>18 A. I would -- I would think so,</p> <p>19 yes.</p> <p>20 Q. And Eric Cherveney was the</p> <p>21 person who was responsible for doing</p> <p>22 that?</p> <p>23 A. After August of 2005, yes,</p> <p>24 he was doing those.</p>	<p style="text-align: right;">Page 145</p> <p>1 August 2005, correct?</p> <p>2 MS. McCLURE: Objection.</p> <p>3 THE WITNESS: I don't.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Do you have an understanding</p> <p>6 about -- did you ever look at any of</p> <p>7 those excessive order reports?</p> <p>8 A. Yes.</p> <p>9 Q. How often did you look at</p> <p>10 excessive order reports?</p> <p>11 A. I couldn't say. Not very</p> <p>12 often.</p> <p>13 Q. About how many orders would</p> <p>14 be included in an excessive order report,</p> <p>15 on the times when you observed them?</p> <p>16 A. I have no idea.</p> <p>17 Q. Would you say 100 orders,</p> <p>18 more than 100 orders?</p> <p>19 MS. McCLURE: Objection.</p> <p>20 Form. Asked and answered.</p> <p>21 THE WITNESS: I couldn't</p> <p>22 say.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Okay. A million orders?</p>

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1 You have no idea about how many orders
2 are in an excessive order?
3 A. I doubt it's a million.
4 Q. Okay. More than -- these
5 were generated -- you don't know how
6 frequently they were generated, monthly,
7 weekly?
8 A. I believe they were monthly
9 reports --
10 Q. Okay.
11 A. -- and they were generated
12 for each distribution center and reported
13 to DEA.
14 Q. Okay. And those were
15 maintained in the Law Track system or how
16 were those maintained?
17 MS. McCLURE: Objection.
18 Form.
19 THE WITNESS: Those reports?
20 BY MR. PIFKO:
21 Q. Yeah.
22 A. I don't know.
23 Q. About how many occasions do
24 you recall looking at the excessive order

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1 reports?
2 MS. McCLURE: Objection.
3 Asked and answered.
4 THE WITNESS: I don't know.
5 I just know what they look like.
6 BY MR. PIFKO:
7 Q. Let's talk about the duty to
8 prevent diversion.
9 A. Okay.
10 Q. There's a quote here from
11 the Code of Federal Regulations.
12 It says: "All applicants
13 and registrants shall provide effective
14 controls and procedures to guard against
15 theft and diversion of controlled
16 substances."
17 MS. McCLURE: To the extent
18 that that's not a full and
19 complete representation of what
20 the statute says, which I can't
21 say off the top of my head whether
22 it is or it isn't, then I object
23 to the excerpt.
24 BY MR. PIFKO:

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1 Q. We talked earlier about the
2 duty for a registrant to prevent
3 diversion. Do you recall that?
4 A. Yes. Yes.
5 MS. McCLURE: Objection to
6 form.
7 BY MR. PIFKO:
8 Q. Do you know what diversion
9 is?
10 A. It's basically the act of
11 diverting something from wherever it was
12 intended in basic terms.
13 Q. Do you have an understanding
14 of how the company seeks to prevent
15 diversion?
16 MS. McCLURE: Objection.
17 Form.
18 THE WITNESS: We seek to
19 prevent diversion by complying
20 with the regulations.
21 BY MR. PIFKO:
22 Q. Do you understand that -- do
23 you have an understanding about why we
24 want to prevent diversion?

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1 A. Yes.
2 Q. What's your understanding
3 why we want to prevent diversion?
4 A. We want to prevent --
5 preventing diversion prevents controlled
6 substances from getting -- getting
7 outside of the legitimate channels that
8 they're being intended for.
9 Q. And why do we want to do
10 that? Why don't we want controlled
11 substances to get outside of legitimate
12 channels?
13 A. Because we don't want people
14 that shouldn't be getting them to be
15 getting them.
16 Q. Because they can abuse them?
17 MS. McCLURE: Objection.
18 THE WITNESS: They could.
19 BY MR. PIFKO:
20 Q. And they could become
21 addicted to them?
22 A. They could.
23 MS. McCLURE: Same objection
24 to the inclusion of partial

<p style="text-align: right;">Page 150</p> <p>1 testimony without context from 2 other witnesses. 3 BY MR. PIFKO: 4 Q. David May testified: "I 5 think there's been several actions that 6 have been taken where it's becoming 7 difficult for people to receive 8 prescription opioids over time. And 9 there are a number of different reasons 10 why. 11 "I think that people who may 12 be addicted and can no longer get a 13 prescription opioid, can that cause them 14 to go to the illegal market? I think it 15 can. Has that caused folks to do that? 16 I think it has." 17 Do you have an understanding 18 that people can get addicted to a 19 prescription and then seek those pills 20 through the illegal market? 21 MS. McCLURE: Continuing 22 objection to this line with this 23 witness's testimony up on the 24 screen.</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. You do? 2 A. I agree that they could. 3 Q. Did the DEA tell you at any 4 point about the propensity of people to 5 get prescription opioids and then turn to 6 the illegal market? 7 A. I don't recall that 8 specifically, no. 9 Q. I'm going to hand you an 10 exhibit that was produced to us a couple 11 of days ago. 12 MR. PIFKO: Just a minute. 13 My colleague is getting that for 14 you. 15 (Document marked for 16 identification as Exhibit 17 ABDC-Mays-1.) 18 BY MR. PIFKO: 19 Q. I'm handing you what's 20 marked as Exhibit 1. It's a document 21 that's Bates-labeled ABDCMDL00315887 22 through -- I have the copy in front of me 23 that was e-mailed that doesn't have the 24 Bates number. My colleague is getting</p>
<p style="text-align: right;">Page 151</p> <p>1 THE WITNESS: Can you repeat 2 the question? And I don't really 3 know what the question was that 4 prompted his answer. So it's kind 5 of difficult for me to -- 6 BY MR. PIFKO: 7 Q. That's okay. I'm just 8 asking you -- 9 A. -- to comment on what he's 10 stating. 11 Q. I'm not asking you to 12 comment on what he's stating. 13 A. Okay. 14 Q. I'm just asking you if you 15 agree that someone can start with a 16 prescription opioid and then become 17 addicted and then seek to fill their need 18 of their addiction through illegal 19 channels? 20 MS. McCLURE: Objection. 21 Form. 22 BY MR. PIFKO: 23 Q. Do you agree with that? 24 A. I do.</p>	<p style="text-align: right;">Page 153</p> <p>1 the last Bates numbers. While he's doing 2 that, please take a moment to review this 3 document. 4 A. Okay. 5 Q. ABDCMDL00315887 through 6 315900. 7 Let me know when you're done 8 reviewing it. 9 A. Okay. 10 Q. You're done reviewing it? 11 A. Mm-hmm. Yes, sir. 12 Q. Okay. Have you seen that 13 document before? 14 A. I believe so. 15 Q. Can you tell me what it is? 16 A. It looks like a slide 17 presentation that was given to me in 18 August of 2005 the DEA had forwarded. 19 Q. Is your name on here? 20 A. I don't think so. 21 Q. You said -- I just said 22 that, because you said it was given to 23 you. 24 Do you recall being --</p>

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1 participating in this meeting?
2 A. Yes. I represented
3 AmerisourceBergen in that meeting.
4 Q. Okay. Who was at this
5 meeting besides you?
6 A. It was only myself and Mike
7 Mapes from DEA. And I don't recall the
8 gentleman's name, but I think he was
9 their chief counsel.
10 Q. If you go to the last --
11 A. He was an attorney.
12 Q. -- the last page.
13 A. Mm-hmm.
14 Q. It's got Mike Mapes, and
15 it's got Kyle Wright. Is Kyle the other
16 person that was there?
17 A. No.
18 Q. Okay.
19 A. I don't think Kyle --
20 Q. It was someone other than
21 Kyle?
22 A. I don't think Kyle was in
23 the room.
24 Q. Okay. You don't remember

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1 the other person's name?
2 A. No, I don't. He was an
3 older gentleman, and he was an attorney.
4 But I don't remember his exact title. He
5 was an attorney with DEA.
6 Q. Was this the first time that
7 you met with the DEA as a representative
8 of AmerisourceBergen Corporation?
9 A. No, I'm sure I met with DEA
10 in the past before that.
11 Q. What were other types of
12 occasions where you would have met with
13 DEA?
14 A. I remember when I was in
15 Chattanooga meeting with them in
16 Nashville related to the -- some concerns
17 they had following an inspection, I
18 believe.
19 Q. That was back in the '70s?
20 A. Yeah. Yeah. '70s, early
21 '80s, maybe.
22 Q. Okay. How about more
23 recently, but prior to this meeting?
24 A. Just me meeting with DEA --

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1 Q. You and anybody else
2 meeting --
3 A. -- or are you talking
4 about --
5 Q. -- with the DEA in an
6 official capacity --
7 A. They --
8 MS. McCLURE: Let him
9 finish.
10 THE WITNESS: Sorry.
11 MS. McCLURE: Let him
12 finish, and then you can talk.
13 Otherwise she has trouble getting
14 it all down.
15 THE WITNESS: I'm sorry.
16 BY MR. PIFKO:
17 Q. Okay. So my question is,
18 prior to this meeting with DEA in
19 August 10, 2005, if you had met with them
20 in an official capacity before then.
21 A. Not other than that
22 situation I told you about. I may have
23 met with them -- anytime we had an
24 informal hearing or something like that,

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1 and I can't remember if it was before
2 that. I went to an informal hearing in
3 Atlanta, based on the Atlanta DC. They
4 had concerns about order forms during an
5 inspection. Again, the previous one in
6 Nashville. Other than that not in an
7 official capacity that I can recall.
8 Q. When was the Atlanta meeting
9 that you can recall?
10 A. I don't remember. It was
11 probably early 2000s, something like
12 that.
13 Q. So this specific meeting,
14 how did it come about, did someone call
15 you up and say --
16 A. This one?
17 Q. Yeah.
18 A. What prompted the meeting?
19 Q. Yeah.
20 A. Kyle Wright approached me at
21 an H -- I believe it was an HDA
22 conference and asked me if I would come
23 and meet with them. And I said sure.
24 Q. When was that conference?

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1 A. It must have been earlier in
2 2005.
3 Q. Did he tell you what he
4 wanted to meet about?
5 A. I don't recall specifically.
6 He just asked if we would come and meet
7 with them.
8 Q. Okay. And so were you
9 concerned about why he was asking you to
10 meet with him?
11 A. No. He didn't say anything
12 to me that concerned me about the
13 meeting. That's why I went by myself.
14 Q. So you went to DEA
15 headquarters for this meeting?
16 A. That's correct.
17 Q. And then they gave you this
18 slide presentation?
19 A. I think they just gave me
20 the printed slides in a binder.
21 Q. Okay. And --
22 A. And discussed them.
23 Q. Okay. Did you discuss the
24 slides in the meeting?

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1 A. I believe so.
2 Q. How long was the meeting?
3 A. It wasn't real long. Maybe,
4 maybe an hour. Maybe less.
5 Q. So the first slide on the
6 document is internet pharmacy data. Do
7 you see that?
8 A. Yes.
9 Q. Was the meeting focused on
10 specifically internet pharmacies?
11 A. Yes.
12 Q. When you saw Mike Mapes at
13 an had meeting, how -- and he invited you
14 to this meeting -- did I get that right?
15 MS. McCLURE: Objection to
16 form.
17 THE WITNESS: That's
18 incorrect. It was Kyle Wright.
19 BY MR. PIFKO:
20 Q. Oh, sorry. Okay. Kyle, how
21 did he know to approach you to request a
22 meeting with AmerisourceBergen?
23 A. I don't know. I guess he --
24 he was --

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1 MS. McCLURE: Objection to
2 form. You can answer.
3 THE WITNESS: -- at the
4 conference. It's an annual
5 conference, and often DEA is
6 invited to attend and present.
7 And I don't know how he
8 found out who I was, or how he
9 approached me. But he -- he was
10 waiting outside of one of the
11 sessions I was in and approached
12 me when I walked out.
13 BY MR. PIFKO:
14 Q. Okay. And you had never met
15 him before?
16 A. Never met him before.
17 Q. And he just introduced
18 himself and said hi, I'm from the DEA, I
19 would like you to come to a meeting?
20 A. Yeah. It was a very
21 friendly exchange.
22 Q. Okay. So then you go to
23 this meeting. You said it's about an
24 hour and a half?

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1 A. No, I said it was about an
2 hour or less.
3 Q. Oh okay. And you just
4 flipped through the slides with them?
5 MS. McCLURE: Objection.
6 THE WITNESS: I don't
7 recall. I just remember they gave
8 me a binder.
9 BY MR. PIFKO:
10 Q. This document has two slides
11 per page. But going to the second page,
12 third slide --
13 A. Okay.
14 Q. -- it says "Issues to
15 Consider."
16 Do you see that?
17 A. Yes.
18 Q. What are these -- do you
19 have an understanding of what these
20 issues to consider are for?
21 A. Yeah. My understanding was
22 issues to consider in identifying -- it
23 was related to internet pharmacy, things
24 to look at, things to take into

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1 consideration when reviewing a pharmacy.
 2 Q. And did you understand --
 3 let's go back to the first slide.
 4 A. Okay.
 5 Q. There's a slide that says
 6 "Internet Pharmacies."
 7 A. Mm-hmm.
 8 Q. Do you see that?
 9 A. Mm-hmm, yes.
 10 Q. And it talks about some
 11 attributes of an internet pharmacy.
 12 A. Correct.
 13 Q. Do -- do you have an
 14 understanding about why the DEA was
 15 concerned about internet pharmacies?
 16 A. Yes.
 17 Q. What -- what was your
 18 understanding?
 19 A. Well, my -- my understanding
 20 from this meeting was that it was
 21 becoming a big problem.
 22 Q. How so?
 23 A. Because people were able to
 24 purchase specifically hydrocodone

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1 combination products and -- and other
 2 drugs over the internet just based on a
 3 questionnaire and not seeing a doctor.
 4 Q. Were you aware of this
 5 concern about internet pharmacies prior
 6 to this August 10th meeting, 2005 meeting
 7 with the DEA?
 8 A. I don't -- I think this was
 9 the first time that it was brought to my
 10 attention, that it was a problem.
 11 Q. You don't recall ever
 12 discussing concerns about internet
 13 pharmacies within AmerisourceBergen prior
 14 to this time?
 15 A. No, I don't.
 16 Q. After attending this
 17 meeting, did you discuss the nature of
 18 these slides and the discussion with the
 19 DEA with anyone at AmerisourceBergen?
 20 A. Yes.
 21 Q. Who did you discuss it with?
 22 A. My boss, Chris Zimmerman.
 23 Q. Anyone else?
 24 A. I can't remember if anyone

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1 else was involved in the discussion.
 2 Q. Was it as a result of this
 3 meeting that you implemented the process
 4 where Eric Cherveny would look for
 5 hydrocodone combination products in the
 6 excessive order reports?
 7 A. Yes.
 8 Q. Did you talk about this
 9 meeting with Eric Cherveny?
 10 A. I don't remember talking to
 11 him specifically about this meeting. But
 12 that's when we put those procedures in
 13 place.
 14 Q. Did you implement any other
 15 procedures as a result of this meeting?
 16 A. Not that I -- not other than
 17 previously stated.
 18 Q. The only procedure I'm --
 19 for clarity of the record, that I'm aware
 20 of, is looking for hydrocodone products
 21 in the excessive order reports. Were
 22 there any other procedures that you
 23 implemented as a result of this meeting?
 24 MS. McCLURE: Objection to

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1 form.
 2 THE WITNESS: The -- the
 3 enhanced due diligence.
 4 BY MR. PIFKO:
 5 Q. What specifically --
 6 A. Of customers.
 7 Q. And what specifically was
 8 that?
 9 A. The questionnaire and the
 10 site visit.
 11 Q. Okay. The questionnaire
 12 that we talked about earlier that you --
 13 you would occasionally send these
 14 questionnaires to customers after
 15 August 2005, is that correct?
 16 A. That's my -- that's my
 17 understanding and my recollection.
 18 Q. And the purpose of that
 19 questionnaire was to try to learn about
 20 whether a pharmacy might be engaging in
 21 internet pharmacy conduct?
 22 MS. McCLURE: Objection to
 23 form.
 24 THE WITNESS: That was the

<p style="text-align: right;">Page 166</p> <p>1 primary focus. 2 Sorry. 3 BY MR. PIFKO: 4 Q. There's a bunch of court 5 cases discussed in here. Supreme Court 6 case on the third page, and then there's 7 a pharmacy mentioned here with a cite to 8 the Federal Register. Another pharmacy 9 and a Federal Register cite. Another 10 Supreme Court case. Do you recall 11 what -- what they told you when you were 12 looking at these court cases and Federal 13 Register cites? 14 A. No, I do not. 15 Q. Sitting here today, do you 16 understand what the significance of these 17 court cases, two court cases and the two 18 pharmacies, why they are included here? 19 MS. McCLURE: Objection to 20 the form. 21 THE WITNESS: I don't 22 recall -- I don't remember these 23 cases or specifics of them. 24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. Did you give one to Chris 2 Zimmerman? 3 A. I couldn't -- I don't 4 remember specifically who I gave them to. 5 Q. You think you gave them to 6 somebody? 7 A. I'm sure I did. 8 Q. Let's go to Page 7 of the 9 document. 10 A. Okay. 11 Q. It talks about suspicious 12 orders. Do you see that here? 13 A. Yes. 14 Q. Did you discuss suspicious 15 orders with them in connection with this 16 meeting, the DEA? 17 A. I don't remember 18 specifically that. 19 Q. Do you recall the DEA 20 telling you at this time that you had to 21 report suspicious orders when discovered? 22 A. I don't recall the 23 discussion. 24 Q. Do you recall the DEA</p>
<p style="text-align: right;">Page 167</p> <p>1 Q. Do you remember reading 2 any -- did you -- after the meeting, did 3 you read the Federal Register cites that 4 are here about these pharmacies? 5 A. I don't remember. 6 Q. Do you believe you would 7 have shared these -- those Federal 8 Register cites with anyone at 9 AmerisourceBergen? 10 A. I'm sure I did, because I 11 was given binders to take back. 12 Q. You were given more than one 13 copy? 14 A. I think I was given two or 15 three. 16 Q. Okay. Did they tell you 17 what they wanted you to do with these 18 extra copies? 19 A. I think they just offered 20 them as extra copies. 21 Q. Okay. And who did you give 22 it to? 23 A. I couldn't tell you 24 specifically.</p>	<p style="text-align: right;">Page 169</p> <p>1 telling you that reporting a suspicious 2 order to the DEA does not relieve the 3 distributor of the responsibility to 4 maintain effective controls against 5 diversion? 6 A. I don't recall that 7 discussion. 8 Q. Did you have an 9 understanding that that was a 10 requirement -- 11 A. Yes. 12 Q. -- at that time? 13 MS. McCLURE: Object to the 14 form. 15 THE WITNESS: Yes, I 16 understand the requirement. 17 BY MR. PIFKO: 18 Q. What efforts did 19 AmerisourceBergen have in place at that 20 time to identify suspicious orders? 21 A. We had the same report that 22 we discussed earlier that was approved by 23 DEA. 24 Q. Anything else?</p>

<p style="text-align: right;">Page 170</p> <p>1 A. Be excessive suspicious 2 order report. And that's what we 3 reported to DEA. 4 Q. Anything else? 5 A. That -- anything else that 6 we do to -- 7 Q. At that time -- 8 MS. McCLURE: Were you 9 finished answering his question? 10 THE WITNESS: No. I guess I 11 want him to repeat the question, 12 the last question. When you say 13 anything else, related to what? 14 BY MR. PIFKO: 15 Q. Again, talking about this 16 time period that's up on the slide here, 17 before the suspension of the Orlando 18 facility's registration, but after the 19 AmerisourceBergen merger. Was there 20 anything else in place besides the 21 suspicious excessive order reports that 22 we talked about? 23 A. Sure. Yeah. Yes. 24 Q. To identify suspicious</p>	<p style="text-align: right;">Page 172</p> <p>1 A. Yes. At the time of 2 renewal. 3 Q. What do you mean renewal? 4 What's that? 5 A. Well, the customer is 6 required to renew their license and 7 required to renew their DEA registration. 8 Q. Okay. 9 A. We systematically track 10 that. 11 Q. So when you onboard a 12 customer, you mark the date of when they 13 were required to renew their 14 registration? 15 A. It's loaded in the system. 16 Q. And then you would check at 17 some point after that to see if they 18 still had a valid registration? 19 A. The system monitored it. 20 Once they hit an expiration date, the 21 system would automatically block orders, 22 depending on which license it is. 23 Q. Anything else that you would 24 do to check to see if a registration was</p>
<p style="text-align: right;">Page 171</p> <p>1 orders? 2 A. There's other things in 3 place that the regulations require us to 4 do. 5 We make sure that any 6 pharmacy that we distribute controlled 7 substances to is properly licensed by the 8 state and registered by DEA. 9 Q. How did you do that? 10 A. The requirement is that we 11 make a good faith effort to ensure that 12 they are licensed and registered with 13 DEA, and we typically would -- this was 14 before you could check websites to verify 15 it, we would get copies of their licenses 16 to verify that they were properly 17 licensed. 18 Q. At what stage in the process 19 would you get copies of their license? 20 A. Upon onboarding of the 21 customer. 22 Q. Did you ever engage in any 23 effort to check their license after you 24 onboarded them?</p>	<p style="text-align: right;">Page 173</p> <p>1 revoked or suspended? 2 A. Yes. We'd get a NTIS report 3 that gets reviewed every -- I believe 4 it's every month, and it basically is 5 a -- information about all the customers, 6 DEA registration, it gets matched -- it 7 gets matched up with our customer file 8 and flags any discrepancies, and they get 9 investigated. That's one way. 10 And DEA also sends out a -- 11 they used to mail it out, like a 12 quarterly retired list of any 13 registered -- registration numbers that 14 had been revoked or retired, and that was 15 required to be reviewed. 16 Q. And all those things were 17 done during this time period? 18 A. As I recall, yes. 19 Q. Okay. So you had the 20 excessive suspicious order reports, the 21 checking of the registration. Anything 22 else that you did to identify suspicious 23 orders? 24 A. Again, we had the posting in</p>

<p style="text-align: right;">Page 174</p> <p>1 the vault and cage with the base quantity 2 levels that -- so we didn't want to 3 totally rely on systems. We wanted to 4 make sure that people had an opportunity 5 to report any orders that looked 6 suspicious to them to their supervisor. 7 Q. Okay. Anything else? 8 A. I can't think of anything 9 else. Could be. 10 Q. Going back to Exhibit 1. 11 I'm on Page 7. 12 A. Okay. 13 Q. It looks like you are there. 14 A. Yes, sir. 15 Q. The second slide on Page 7 16 there says, "Reporting a suspicious order 17 to DEA does not relieve the distributor 18 of the responsibility to maintain 19 effective controls against diversion." 20 Do you see that? 21 A. Yes, I do. 22 Q. Did you have an 23 understanding that that was a requirement 24 at that time?</p>	<p style="text-align: right;">Page 176</p> <p>1 enough necessarily to control diversion, 2 correct? 3 MS. McCLURE: Object to 4 form. 5 THE WITNESS: Again, 6 reporting a suspicious order 7 doesn't relieve us of our 8 responsibility to have effective 9 controls to prevent diversion, 10 which we have in place, we had in 11 place. 12 BY MR. PIFKO: 13 Q. So if diversion occurs even 14 though you reported an order, you're 15 still responsible, correct? 16 MS. McCLURE: Object to the 17 form. 18 THE WITNESS: Can you repeat 19 that again? 20 BY MR. PIFKO: 21 Q. You said reporting a 22 suspicious order doesn't relieve us of 23 our duty to have effective controls 24 against diversion. So I'm just</p>
<p style="text-align: right;">Page 175</p> <p>1 MS. McCLURE: Object to 2 form. 3 THE WITNESS: I understood 4 the regulation, yes. 5 BY MR. PIFKO: 6 Q. What do you understand that 7 to mean? 8 A. That we still have to have 9 effective controls to prevent diversion. 10 We're required to maintain effective 11 controls. 12 Q. And that even if you report 13 an order to the DEA that's suspicious, 14 you still need to do something to make 15 sure it's not diverted? 16 MS. McCLURE: Object to 17 form. 18 THE WITNESS: We just 19 understand that we're -- it 20 doesn't relieve us of our 21 responsibility to maintain 22 effective controls. 23 BY MR. PIFKO: 24 Q. So reporting it alone is not</p>	<p style="text-align: right;">Page 177</p> <p>1 clarifying. Merely reporting it, if an 2 order is suspicious, and you report it 3 and it gets diverted, you're still 4 responsible, correct? 5 MS. McCLURE: Object to the 6 form. Calls for a legal 7 conclusion. 8 THE WITNESS: I disagree. 9 BY MR. PIFKO: 10 Q. Okay. Why do you disagree? 11 A. How can we be responsible 12 for a pharmacy or -- that diverts 13 controlled substances after they've 14 received them from us? 15 Q. Well, you just said that 16 reporting -- even if you report it, you 17 still have responsibility to prevent 18 diversion, correct? 19 A. No. We have a 20 responsibility to maintain effective 21 controls against diversion. So we 22 have -- we had the controls in place. 23 That doesn't mean diversion is not going 24 to take place at some point.</p>

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1 Q. Okay. So if you report an
2 order though, it's still your job to
3 maintain effective controls to prevent
4 diversion of that order, correct?
5 A. I think we keep saying the
6 same thing, yes.
7 Q. Do you agree?
8 MS. McCLURE: Object to the
9 form.
10 THE WITNESS: We have a
11 responsibility to maintain
12 effective controls against
13 diversion. That's the regulation.
14 BY MR. PIFKO:
15 Q. And so it's your job to
16 maintain effective controls against
17 diversion regardless of whether you
18 report an order as suspicious, correct?
19 A. That's correct.
20 MS. McCLURE: Mark, at some
21 point, we've been going for almost
22 an hour and a half. Take a break
23 for lunch.
24 MR. PIFKO: Yeah, we can

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1 take a lunch break as soon as we
2 finish this document.
3 BY MR. PIFKO:
4 Q. Let's go to Page 8, the next
5 page?
6 A. Okay.
7 Q. The next slide says
8 "Suspicious Orders."
9 A. Mm-hmm.
10 Q. Do you see that? It says
11 DEA cannot tell a distributor if an order
12 is legitimate or not. Distributor must
13 determine which orders are suspicious and
14 make a sales decision.
15 Do you see that?
16 A. Yes, I do.
17 Q. Do you have an understanding
18 of what that means?
19 A. Yes.
20 Q. What's your understanding of
21 what that means?
22 A. My understanding is we're
23 required to develop a system to detect
24 suspicious -- and report suspicious

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1 orders. And we can't rely on DEA to tell
2 us what should be reported and what
3 shouldn't.
4 Q. It's not the DEA's job to
5 tell you if an order is suspicious,
6 correct?
7 MS. McCLURE: Object to the
8 form.
9 THE WITNESS: No, it's not
10 DEA's job to tell us what's
11 suspicious.
12 BY MR. PIFKO:
13 Q. And it's not DEA's job to
14 maintain effective controls against
15 diversion, correct?
16 MS. McCLURE: Object to the
17 form.
18 THE WITNESS: Well, I think
19 DEA has a role to prevent
20 diversion. I think that's why
21 they're in place.
22 BY MR. PIFKO:
23 Q. But it's your job as a
24 registrant to maintain effective controls

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1 to prevent diversion, correct?
2 MS. McCLURE: Object to the
3 form.
4 THE WITNESS: Sorry. That's
5 a regulatory requirement.
6 BY MR. PIFKO:
7 Q. This next bullet point here,
8 "Distributor must determine which orders
9 are suspicious and make a sales
10 decision."
11 Do you see that?
12 A. Yes, I see it.
13 Q. What do you understand that
14 to mean?
15 A. I understand that to mean
16 that we have to make our own decision
17 about what's suspicious and what to
18 report.
19 Q. And if an order is
20 suspicious, to make a decision on whether
21 to sell it?
22 A. That's kind of what it says.
23 That's pretty much what it says.
24 Q. You understand that to mean

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1 if an order is suspicious, if you
2 determine that an order is suspicious,
3 you need to make a decision not to sell
4 it?

5 MS. McCLURE: Object to the
6 form.

7 THE WITNESS: No.

8 BY MR. PIFKO:

9 Q. You don't understand that to
10 mean that?

11 A. I understand that it means
12 we have to -- it's up to us to determine
13 what's a suspicious order and then we
14 make a business decision about whether to
15 fill the order or not.

16 Q. Do you believe that selling
17 an order that you've determined to be
18 suspicious is inconsistent with your duty
19 to prevent diversion?

20 MS. McCLURE: Object to the
21 form.

22 THE WITNESS: No.

23 BY MR. PIFKO:

24 Q. So you don't believe that if

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1 you sell an order that's suspicious, you
2 could be contributing to diversion?

3 MS. McCLURE: Object to the
4 form.

5 THE WITNESS: I don't know
6 that diversion takes place just
7 because an order is reported as
8 suspicious. It doesn't mean it's
9 diversion.

10 BY MR. PIFKO:

11 Q. The next series of slides
12 are about examples of pharmacies. The
13 copy we have is essentially illegible
14 with these pictures. But do you have an
15 understanding about what was portrayed in
16 these slides, and did you discuss it at
17 the meeting?

18 MS. McCLURE: Object to the
19 form. Compound.

20 THE WITNESS: I don't
21 recall.

22 BY MR. PIFKO:

23 Q. I'm talking about from
24 Pages 9 to 11.

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1 A. I don't recall specific
2 discussions about these slides.

3 Q. Do you recall there being
4 discussion about what attributes are of
5 an internet pharmacy and investigations
6 that you could conduct to determine
7 whether a pharmacy is an internet
8 pharmacy?

9 MS. McCLURE: Object to the
10 form. Compound.

11 THE WITNESS: The first part
12 of your question, I understand
13 that this was a discussion of the
14 attributes of what could be an
15 internet pharmacy.

16 BY MR. PIFKO:

17 Q. And did you understand that
18 the DEA expected you to conduct
19 investigations to determine if your
20 customers were internet pharmacies?

21 A. As I recall, they gave us --
22 they are not part of this attachment.
23 But they gave us some questions that they
24 suggested that we ask. I don't think it

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1 was called investigations. But they --
2 they gave us some questions that they
3 felt like would be -- that they
4 recommended we ask of our customers.

5 Q. And those were included in
6 your questionnaire?

7 A. Yes. As I recall.

8 Q. Let's go to Page 12.

9 A. Okay.

10 Q. Second slide.

11 A. Okay.

12 Q. Well, let's go actually to
13 the first slide, Popular Internet Drugs.
14 Do you see that?

15 A. Yes.

16 Q. Hydrocodone. Do you see
17 that?

18 You have an understanding --
19 we talked about hydrocodone earlier.

20 A. Mm-hmm. Right.

21 Q. Do you recall discussing
22 these drugs being of concern?

23 A. Yes.

24 Q. Why is that?

<p style="text-align: right;">Page 186</p> <p>1 A. Why -- why they were drugs 2 of concern? 3 Q. Yeah. 4 A. As I recall, those were the 5 more common drugs that were being filled 6 from internet activity. 7 Q. And those drugs were 8 potentially being subject to abuse? 9 A. Any controlled substance is 10 subject to abuse, yes. 11 Q. But these were of particular 12 concern? 13 A. I think these were -- my 14 understanding is these were particularly 15 of concern because these were the popular 16 internet drugs, is what I recall. 17 Q. Next slide talks about 18 "prescriptions not written in the usual 19 course of professional practice are not 20 valid." 21 Do you have an understanding 22 of what -- what that means? 23 A. Yes, I do. 24 Q. What does that mean?</p>	<p style="text-align: right;">Page 188</p> <p>1 corresponding responsibility. 2 That was part of a 3 question -- I think that was part 4 of the question in our 5 questionnaire. If they answered 6 that they didn't fill them based 7 on that, then that was a red flag 8 for us, that it can be an internet 9 pharmacy. 10 BY MR. PIFKO: 11 Q. And the DEA also told you 12 that drugs dispensed pursuant to invalid 13 prescriptions are not for legitimate 14 medical purposes, the drugs are diverted? 15 A. I see it, yes. 16 Q. That's what they told you? 17 A. I don't recall the 18 conversations. I just see what's in the 19 slides. 20 Q. They communicated that to 21 you -- 22 A. It was 13 years ago. 23 Q. Okay. They communicated 24 that to you via these slides for sure</p>
<p style="text-align: right;">Page 187</p> <p>1 A. It basically means that the 2 DEA expects a prescription to be written 3 based on a face-to-face doctor-patient 4 relationship. 5 Q. And so did the DEA expect 6 you to assess whether your customers were 7 filling prescriptions that may have been 8 generated through an invalid professional 9 practice? 10 A. I don't think they looked at 11 that as our role. They looked at that 12 as -- they -- that's why they gave us 13 some of these things, characteristics to 14 look for, and questions to ask. But 15 not -- not to know whether -- you know, 16 how the prescriptions were written. 17 Q. But they wanted you to 18 consider whether the prescriptions were 19 not being written face-to-face as part of 20 your assessment of these issues? 21 MS. McCLURE: Object to the 22 form. Misstates prior testimony. 23 THE WITNESS: That's the -- 24 that's the pharmacies'</p>	<p style="text-align: right;">Page 189</p> <p>1 though, right? 2 A. Yes. 3 Q. And they said that's not 4 limited to internet pharmacies as well, 5 correct? 6 A. That's what it says. 7 Q. Going to the next page, 8 Page 13. 9 A. Okay. 10 Q. You see here it says, "A 11 pattern of drugs being distributed to 12 pharmacies who are diverting controlled 13 substances demonstrates the lack of 14 effective controls against diversion by 15 the distributor." 16 Do you see that? 17 A. I see it. 18 Q. Okay. So again, the DEA 19 communicated to you at a minimum through 20 these slides that if you as a distributor 21 are selling drugs in a pattern to 22 pharmacies who are diverting them, that 23 is evidence of a lack of effective 24 controls against diversion. Agree?</p>

Page 190

1 MS. McCLURE: Object to the
2 form.
3 THE WITNESS: Let me read
4 this again. Yeah, my read of this
5 is if there is a pattern that a
6 distributor is -- is knowingly
7 distributing drugs to a pharmacy
8 that's diverting them would be a
9 lack of effective controls.
10 BY MR. PIFKO:
11 Q. Where does it say knowingly?
12 A. Well, that's just my
13 interpretation --
14 Q. Okay. But it doesn't say
15 that, right?
16 A. -- pattern -- no, it doesn't
17 say that.
18 Q. Okay. So what they
19 communicated to you was that simply
20 having a pattern of drugs being
21 distributed to pharmacies who were
22 diverting controlled substances
23 demonstrates the lack of effective
24 controls against diversion by the

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1 distributor, correct?
2 MS. McCLURE: Object to
3 form.
4 THE WITNESS: That's what it
5 says, "a pattern of drugs being
6 distributed to pharmacies."
7 BY MR. PIFKO:
8 Q. And they gave this to you,
9 correct?
10 A. As I recall, yes. Yes.
11 Q. And then it says here, "The
12 DEA registration of the distributor could
13 be revoked under public interest
14 grounds."
15 Do you see that?
16 A. I see that.
17 Q. Do you have an understanding
18 about what that means?
19 A. Yes, I do.
20 Q. What does that mean?
21 A. That if a distributor is --
22 if they feel that the distributor's
23 actions are against the public interest,
24 then they could revoke the registration.

Page 192

1 Q. Okay. Do you have an
2 understanding about why the distributor's
3 action is supposed to be in the public
4 interest?
5 A. Yes.
6 Q. Why is that?
7 A. Well, they want to ensure
8 that drugs are not diverted into
9 illegitimate channels.
10 Q. And that's -- as a
11 distributor, that's your job, among other
12 things, to make sure that doesn't happen,
13 right?
14 MS. McCLURE: Object to the
15 form of the question.
16 THE WITNESS: To have
17 effective controls in place to
18 prevent it.
19 BY MR. PIFKO:
20 Q. The next slide here, it
21 says, "Any distributor who is selling
22 controlled substances that are being
23 dispensed outside the course of
24 professional practice must stop

Page 193

1 immediately."
2 Do you see that?
3 A. I see that.
4 Q. Do you have an understanding
5 about what that means?
6 A. Yes --
7 Q. What's your understanding?
8 A. -- yes.
9 If -- if we're dispensing --
10 if we're distributing controlled
11 substances and we find out that they are
12 being dispensed outside of the course of
13 professional practice, then we should
14 stop distributing to them once we become
15 aware of it.
16 Q. And why is that?
17 A. Because that would be an
18 indication there could be diversion.
19 Q. Next bullet point there.
20 "DEA cannot guarantee that past failure
21 to maintain effective controls against
22 diversion will not result in an action
23 against a distributor."
24 Do you see that?

<p style="text-align: right;">Page 194</p> <p>1 A. Yes, I do.</p> <p>2 Q. Do you have an understanding</p> <p>3 about what that means?</p> <p>4 A. I can tell you what I think</p> <p>5 it means.</p> <p>6 Q. Well, they communicated this</p> <p>7 to you at the time, they gave you this</p> <p>8 presentation, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Did you read it?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Did you tell them you</p> <p>13 didn't understand what that meant?</p> <p>14 MS. McCLURE: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: I can only</p> <p>17 tell you what I think it means. I</p> <p>18 can't remember what they said</p> <p>19 13 years ago.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. I'm just asking you if you</p> <p>22 recall upon receiving this, telling the</p> <p>23 DEA that you didn't understand what any</p> <p>24 of this meant?</p>	<p style="text-align: right;">Page 196</p> <p>1 meet with industry groups. Do you see</p> <p>2 that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Do you recall discussing</p> <p>5 that?</p> <p>6 A. No, I don't recall</p> <p>7 discussing it.</p> <p>8 Q. Do you recall them telling</p> <p>9 you they were going to meet with other</p> <p>10 distributors?</p> <p>11 A. I recall them saying that</p> <p>12 they will be meeting with -- with other</p> <p>13 distributors, yes.</p> <p>14 Q. What did they say about</p> <p>15 that?</p> <p>16 A. I think they called it their</p> <p>17 distributor initiative. And they were</p> <p>18 going to start meeting with all the</p> <p>19 distributors.</p> <p>20 Q. Did they tell you</p> <p>21 specifically any other distributors they</p> <p>22 were going to be meeting with?</p> <p>23 A. No.</p> <p>24 Q. You were part of the</p>
<p style="text-align: right;">Page 195</p> <p>1 A. I don't recall.</p> <p>2 Q. What's your understanding of</p> <p>3 what the second bullet point there means,</p> <p>4 "DEA cannot guarantee that past failure</p> <p>5 to maintain effective controls against</p> <p>6 diversion will not result in an action</p> <p>7 against a distributor"?</p> <p>8 Will -- will -- yeah.</p> <p>9 What's your understanding what that</p> <p>10 means?</p> <p>11 A. Well, I think what it means</p> <p>12 is if you had a failure and even though</p> <p>13 you may have corrected that, and remedied</p> <p>14 the situation, that doesn't mean later on</p> <p>15 that they discover it and they could not</p> <p>16 come back and take action against you for</p> <p>17 that past failure.</p> <p>18 Q. The next page. Top slide.</p> <p>19 A. Okay.</p> <p>20 Q. It talks about -- it says,</p> <p>21 "DEA is going to meet with other</p> <p>22 distributors. Tell you to provide this</p> <p>23 information to your employees at your</p> <p>24 request." And they say they are going to</p>	<p style="text-align: right;">Page 197</p> <p>1 Healthcare Distribution Alliance,</p> <p>2 correct?</p> <p>3 A. Our company is a member,</p> <p>4 yes.</p> <p>5 Q. But you specifically</p> <p>6 participated, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Did you, at this time -- did</p> <p>9 they present anything to -- through the</p> <p>10 had about this issue?</p> <p>11 MS. McCLURE: Objection to</p> <p>12 form.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. I know it was a predecessor</p> <p>15 name at that time, but...</p> <p>16 A. I can't remember precisely.</p> <p>17 But DEA was often invited to meet with</p> <p>18 had and had met with DEA over several</p> <p>19 topics.</p> <p>20 MR. PIFKO: All right.</p> <p>21 Let's take a break.</p> <p>22 THE VIDEOGRAPHER: We are</p> <p>23 going off record. The time is</p> <p>24 12:47.</p>

<p style="text-align: right;">Page 198</p> <p>1 (Lunch break.)</p> <p>2 THE VIDEOGRAPHER: Going</p> <p>3 back on the record. Beginning</p> <p>4 Media File Number 3. The time is</p> <p>5 1:28.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Welcome back.</p> <p>8 I want to start talking now</p> <p>9 about the, as you said, oversight of the</p> <p>10 development of the enhanced ordering</p> <p>11 monitoring program.</p> <p>12 So that occurred after the</p> <p>13 DEA settlement, correct?</p> <p>14 A. During the settlement</p> <p>15 process, yes.</p> <p>16 Q. Okay. As part of the,</p> <p>17 another one of these little slides for</p> <p>18 you, so we are on the same page.</p> <p>19 A. I'm not seeing it yet.</p> <p>20 MS. McCLURE: It's okay.</p> <p>21 THE WITNESS: Here it is.</p> <p>22 MS. McCLURE: Again, your</p> <p>23 date there is the settlement date.</p> <p>24 MR. PIFKO: That's the date</p>	<p style="text-align: right;">Page 200</p> <p>1 Q. Okay.</p> <p>2 A. -- but that's a guess.</p> <p>3 Q. Okay?</p> <p>4 A. That might be on the high</p> <p>5 side even.</p> <p>6 Q. You think it might have been</p> <p>7 less than 12 at that time?</p> <p>8 A. It could have been. I</p> <p>9 just --</p> <p>10 Q. Definitely less than 20?</p> <p>11 A. When you say CSRA</p> <p>12 department, I can't remember exactly.</p> <p>13 Q. In the hierarchy of things,</p> <p>14 Chris Zimmerman was at the top of the</p> <p>15 CSRA, correct?</p> <p>16 A. That's correct.</p> <p>17 Q. And then you were a direct</p> <p>18 report to Zimmerman, correct?</p> <p>19 A. That's correct.</p> <p>20 Q. Did anyone else, other than</p> <p>21 you, have a role in the diversion control</p> <p>22 aspect of the CSRA?</p> <p>23 A. Yes.</p> <p>24 Q. Who else in the CSRA at the</p>
<p style="text-align: right;">Page 199</p> <p>1 of the agreement.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Okay. So let's talk</p> <p>4 about -- so the DEA settlement occurs.</p> <p>5 And you -- at what point did you get</p> <p>6 tasked with overseeing the development of</p> <p>7 the enhanced order monitoring program?</p> <p>8 A. Almost from -- it was while</p> <p>9 the negotiations were going on for the</p> <p>10 settlement.</p> <p>11 Q. Let's talk -- so you said,</p> <p>12 at this 2007 time period, I asked you</p> <p>13 earlier how many employees were in the</p> <p>14 CSRA. Do you remember --</p> <p>15 A. Yeah.</p> <p>16 Q. -- how many employees there</p> <p>17 were around that time?</p> <p>18 A. Oh, no, I don't know the</p> <p>19 exact number specifically.</p> <p>20 Q. Okay. At one point you said</p> <p>21 13 or 14.</p> <p>22 A. No, I think I said 12.</p> <p>23 Q. Okay.</p> <p>24 A. I said about a dozen --</p>	<p style="text-align: right;">Page 201</p> <p>1 time of the DEA enforcement action was</p> <p>2 engaged in performing diversion-related</p> <p>3 functions?</p> <p>4 A. You mean at the time of the</p> <p>5 action or after we started?</p> <p>6 Q. Well, good question.</p> <p>7 Before you added anybody</p> <p>8 after the action.</p> <p>9 MS. McCLURE: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: So it was</p> <p>12 pretty much everyone at the</p> <p>13 corporate office, in the</p> <p>14 department, was engaged. We</p> <p>15 pretty much engaged everyone that</p> <p>16 we could. Kind of</p> <p>17 all-hands-on-deck.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. But -- no, I mean -- okay,</p> <p>20 but before you even knew about the</p> <p>21 enforcement action, just day to day who</p> <p>22 in the CSRA had responsibilities that</p> <p>23 included diversion control?</p> <p>24 A. Well, at that time it was</p>

Page 202

1 all under regulatory, which was, you
2 know, I was in charge of the regulatory
3 side of our department. And then Eric
4 was -- Eric reported to me at that time
5 as one of my regional directors. And he
6 also had that responsibility that we
7 discussed earlier.
8 Q. So you were the top person
9 at that time on diversion control issues,
10 correct?
11 A. Yes.
12 Q. And you had Eric helping you
13 out underneath you?
14 A. Mm-hmm, that's correct.
15 Q. Anyone else?
16 A. Not that I can recall.
17 Q. Okay. And so, then you get
18 tasked with overseeing the development of
19 the enhanced order monitoring program,
20 because at that time you're the
21 senior-most diversion control person,
22 correct?
23 A. That's correct.
24 Q. So how did you first learn

Page 203

1 about the enforcement action?
2 A. I got a call from the
3 distribution center manager in Orlando.
4 And he told me the DEA was there and they
5 were putting a padlock on their cage,
6 that they were suspending their
7 registration.
8 Q. And do you remember the
9 approximate date of when that happened?
10 A. Approximate? Yeah, it was
11 around April 21st, 22nd, something like
12 that, of 2007. It was in April. I think
13 it was 21st.
14 Q. Did you speak to anyone at
15 the DEA immediately upon learning of that
16 information?
17 MS. McCLURE: Object to the
18 form.
19 THE WITNESS: Not
20 immediately. No.
21 BY MR. PIFKO:
22 Q. What was the first action
23 you took when you learned that?
24 A. I told my boss.

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1 Q. Zimmerman?
2 A. Yes.
3 Q. And you had a discussion
4 with him that the license at the Orlando
5 facility had been suspended?
6 A. That's correct.
7 Q. And what did he tell you?
8 A. I can't remember
9 specifically. I think we went over and
10 told his boss who was the general
11 counsel.
12 Q. And then did you contact DEA
13 at some point after that?
14 A. I didn't, no, not
15 personally.
16 Q. Do you know if Mr. Zimmerman
17 did?
18 A. Mr. Chou, general counsel,
19 called -- called them from his office,
20 and Chris and I, I believe, were both in
21 the office at the time.
22 Q. And did the DEA tell you why
23 they suspended the registration at that
24 time?

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1 A. I don't remember exactly
2 what they said, because John Chou was on
3 the phone with them.
4 Q. Did they send you any
5 documentation after suspending the
6 registration?
7 A. Not that I recall.
8 Q. So at what point in the
9 process did Mr. Zimmerman tell you that
10 you were going to be in charge of
11 developing an enhanced order monitoring
12 program?
13 A. It was probably after -- a
14 week later after meetings with DEA to
15 determine what the issue was and what
16 they wanted us to do.
17 Q. Did you participate in those
18 meetings?
19 A. No.
20 Q. No?
21 A. No.
22 Q. Do you know who did?
23 A. I went down the first day.
24 And I don't even recall what was

Page 206

1 discussed in that meeting. But I wasn't
2 involved in any of the negotiations after
3 that.
4 Q. You said you went down to
5 Orlando?
6 A. No. To DEA headquarters.
7 Q. Okay. And who did you meet
8 with there?
9 A. There were several DEA
10 people in the room. Mike Mapes was in
11 there. And I think even the assistant
12 administrator, I think was in there. I
13 can't -- I can't recall who from DEA was
14 in there.
15 Q. And so then approximately a
16 week later, Chris Zimmerman tells you
17 we're going to have an enhanced order
18 monitoring program and you're going to be
19 in charge of developing it?
20 A. In so many words, yes.
21 Q. How did you know what
22 features you wanted to make changes to?
23 A. Well, it was based on -- it
24 was based on information that was relayed

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1 to us from DEA that they wanted us to be
2 able to stop an order and review it
3 before shipping it.
4 Q. Anything else?
5 A. That's all I can recall.
6 Q. Who communicated to you that
7 DEA wanted you to stop an order and
8 review it before shipping it?
9 A. I'm assuming Chris but I
10 can't -- don't know -- I can't remember
11 for sure.
12 Q. Did you pass that
13 information on to anyone else?
14 A. Just internally. Just
15 internal discussions. I couldn't tell
16 you specifically who.
17 Q. Okay. So then you -- you
18 said it was all-hands-on-deck at that
19 point. Who was involved and assisted you
20 at that point?
21 A. Pretty much everybody in the
22 department. The -- my direct reports.
23 The -- the investigators. Pretty much
24 everybody in the department that -- that

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1 worked at the corporate office was -- was
2 engaged to assist.
3 Q. And then I was asking about
4 the number of people in the department,
5 and you were asking before or after. At
6 some point more people were added to the
7 team. When was that?
8 A. At some time after that. I
9 can't remember, you know, how long it
10 took. But I know we added a couple of
11 other investigators to help to be trained
12 to review orders.
13 Q. Do you know their names?
14 A. I can't remember exactly. I
15 think Ed was hired. Or he may have
16 already been on board at that point. Ed
17 Hazewski as an investigator. A gentleman
18 named Scott Kirsch. I know he was one of
19 the investigators that reviewed orders in
20 the beginning.
21 David Britmeier, I think he
22 came a little later.
23 Eric helped -- Eric helped.
24 I'm trying to think. Cliff

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1 Flood worked in security. He helped us.
2 Q. We're talking about new
3 people.
4 A. New people. Okay. So I
5 know David Britmeier and Scott Kirsch and
6 Ed were, I think, the more recent hires
7 right after the -- the action, but I
8 can't remember if there were others.
9 Q. Their -- they were all --
10 their immediate task was to -- to review
11 orders?
12 A. Yes, I believe so. They --
13 and conduct investigations.
14 Q. Did you make any changes to
15 your threshold system at that point?
16 MS. McCLURE: Object to the
17 form.
18 THE WITNESS: There wasn't a
19 threshold system at that point.
20 BY MR. PIFKO:
21 Q. Okay. Right. You said
22 there was a rolling three-month
23 average --
24 A. Right.

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1 Q. -- with the percentage?
2 Did you make any changes to
3 that aspect of the order monitoring
4 program at that time?
5 A. Yeah, when we developed
6 the -- back when we developed the
7 enhanced program, it took the place of
8 the old program.
9 Q. Okay. So an entirely new
10 program designed from the ground up?
11 MS. McCLURE: Object to the
12 form.
13 THE WITNESS: It took the
14 place -- it replaced it. Yes.
15 BY MR. PIFKO:
16 Q. Okay. So let's talk
17 about --
18 A. An enhanced version.
19 Q. Is there a name for that
20 program or?
21 A. Yeah, order monitoring --
22 OMP. Order monitoring program.
23 Q. So let's go over. What are
24 the general attributes of the OMP?

Page 211

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Page 217

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Page 218

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Page 220

[REDACTED]

Page 219

[REDACTED]

Page 221

[REDACTED]

8 (Document marked for
9 identification as Exhibit
10 ABDC-Mays-2.)
11 BY MR. PIFKO:
12 Q. I'm handing you what's been
13 marked as Exhibit 2.
14 The record will reflect the
15 witness is reviewing the document.
16 For the record, it's a
17 document Bates-labeled ABDCMDL0000075
18 through 84.
19 It's dated June 29, 2007.
20 It's a memorandum. The subject is
21 "Update OMP Distribution Center
22 Procedures."
23 Let me know when you're
24 done.

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1 A. I will. Okay.
2 Q. Have you seen this document
3 before?
4 A. I don't remember it
5 specifically.
6 Q. Your name is on here,
7 correct?
8 A. Yes. It looks like I was
9 copied on it.
10 Q. Is this something that you
11 would have put together or someone -- is
12 this something that you would have put
13 together?
14 MS. McCLURE: Object to the
15 form.
16 THE WITNESS: I don't think
17 so, because there's a lot of
18 technical things in here. So I'm
19 not really sure. It looked like
20 it might be more of a team
21 approach. There's IT, you know,
22 print screens of computer screens
23 and things like that, technical
24 stuff that I wouldn't have been

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1 able to put in here.
2 BY MR. PIFKO:
3 Q. You said that you were
4 supervising the development of the
5 program, correct?
6 A. That's correct.
7 MS. McCLURE: Object to the
8 form.
9 BY MR. PIFKO:
10 Q. Did you have someone on your
11 team that you would have directed to
12 write a memo like this for you?
13 A. I don't recall.
14 Q. You don't remember?
15 A. I don't remember.
16 Q. Do you know what this
17 document is?
18 A. Yes. It appears to be a
19 document updating the distribution
20 centers on the procedures for OMP, the
21 new OMP.
22 Q. So this is the way that the
23 company communicated the new OMP to the
24 distribution centers?

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1 MS. McCLURE: Object to the
2 form.
3 THE WITNESS: I'm sure it
4 wasn't the only way. It looks
5 like -- it looks like it was
6 directed to the distribution
7 center associates.
8 BY MR. PIFKO:
9 Q. You reviewed this document.
10 Is this consistent with what your
11 understanding of the program was?
12 A. Yes, it is.
13 Q. Is there anything that you
14 see in here that's inaccurate?
15 MS. McCLURE: Objection.
16 THE WITNESS: I would have
17 to go through it like very
18 carefully. But I didn't --
19 nothing jumped out at me as being
20 inaccurate.
21 BY MR. PIFKO:
22 Q. Okay. Well, let's go to the
23 second page.
24 A. Okay.

Page 225

1 [REDACTED]
2 [REDACTED]
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Page 234

[REDACTED]

Page 236

[REDACTED]

7 Q. Was there any specific

8 training provided to distribution center

9 associates about how to identify a

10 suspicious order when you implemented

11 this program?

12 A. Yes.

13 Q. Was it put in writing?

14 A. Yes.

15 Q. Was -- was there a name for

16 that document?

17 A. I think it was called

18 responsible -- RPIC training, Responsible

19 Person in Charge. So anyone that

20 reviewed and had -- had the authority to

21 review and release or reject orders had

22 to complete that training and sign off on

23 it.

24 Q. Okay. What was entailed in

Page 235

[REDACTED]

Page 237

1 that training?

2 A. I can't recall specifically.

3 Q. Was it an in-person

4 training?

5 A. Most of the time I think it

6 was. As a matter of fact, it may have

7 always been in-person training.

8 Q. And there was a document --

9 written documentation that went with the

10 training?

11 A. There should have been, yes.

12 Q. Do you have a sense of how

13 long the training session would be?

14 A. No, I don't.

15 Q. An hour?

16 A. It's been years ago. I

17 can't -- I can't remember how they

18 were -- how they were trained. I just

19 know that they were trained.

20 Q. Do you know who would have

21 conducted the training?

22 A. I think initially in some

23 cases -- well pretty much in just about

24 most cases, the compliance manager or the

Page 238

1 CSRA manager, on-site manager conducted
2 the training.
3 Q. And who trained them?
4 A. They would have been trained
5 by, I would think our team. I just don't
6 remember exactly how they were trained.
7 Again, we have annual training
8 conferences.
9 Q. Is there someone specific on
10 your team at that time who was
11 responsible for handling trainings?
12 A. I don't recall. I don't
13 think so.
14 Q. It just could have been
15 anyone under you?
16 A. Yeah.
17 MS. McCLURE: Object to the
18 form.
19 THE WITNESS: Excuse me.
20 BY MR. PIFKO:
21 Q. Do you recall having someone
22 having the job responsibility of
23 conducting training for the distribution
24 centers?

Page 239

1 A. Well, the compliance manager
2 on site was responsible for doing all the
3 training at the distribution center.
4 Q. Well, I mean from your group
5 to train the compliance manager?
6 A. They were trained by our
7 entire team.
8 Q. They would come to you for
9 that training?
10 A. Yes.
11 Q. Annually like you said?
12 A. Annually. Just about every
13 year we have a training conference.
14 Q. And was there documents
15 provided in connection with those
16 training conferences?
17 A. I'm sure we have, you know,
18 the documents as far as the PowerPoints
19 and things like that. I don't know if
20 we've actually got sign offs from each
21 one of them.
22 Q. When a -- going back to
23 Exhibit 2, Page 4.

■ [REDACTED]

Page 240

■ [REDACTED]

Page 241

■ [REDACTED]

Page 242

1 [REDACTED]
2 [REDACTED]
3 MS. McCLURE: Object to the
4 form.
5 THE WITNESS: Something just
6 died here.
7 MR. PIFKO: I think they
8 just turned it off.
9 [REDACTED]
10 [REDACTED]
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Page 250

[REDACTED]

Page 252

[REDACTED]

Page 251

[REDACTED]

Page 253

[REDACTED]

18 Q. Who trained the
19 investigators to do the investigation?
20 A. It would be me and the lead
21 team and -- and CSRA with DEA's
22 assistance.
23 Q. Was there documentation of
24 the training that was provided to the

Page 254

1 investigators?
2 A. I don't know. I don't
3 recall.
4 Q. You don't know if there was
5 any handouts or anything given to them
6 when they were trained?
7 A. I don't recall.
8 MS. McCLURE: Objection.
9 Asked and answered.
10 BY MR. PIFKO:
11 Q. Was there any regularity
12 with the training?
13 MS. McCLURE: Objection to
14 form.
15 THE WITNESS: I don't
16 recall.
17 BY MR. PIFKO:
18 Q. Did anyone give you specific
19 training on how to conduct a due
20 diligence investigation?
21 A. DEA.
22 Q. When did they give you
23 training?
24 A. Sometime during that

Page 255

1 process. When they were working with us
2 through the settlement.
3 Q. Where did you go to do the
4 training?
5 A. They just gave it. It
6 wasn't like formal training. They just
7 gave us general pointers and ideas about
8 how we should conduct our investigations.
9 They gave us the guidelines.
10 Q. They gave you something in
11 writing?
12 A. No.
13 Q. Who -- who told you this?
14 A. Mike Mapes, Kyle Wright, for
15 the most part.
16 Q. They came and met with you
17 and told you?
18 A. Yes.
19 Q. And when did they come and
20 meet with you?
21 A. They were there multiple
22 times during the implementation of the
23 enhanced OMP.
24 Q. And this is in the -- after

Page 256

1 June 2007?
2 A. No.
3 MS. McCLURE: Objection.
4 BY MR. PIFKO:
5 Q. When -- when is this?
6 A. It was prior to that.
7 Q. Okay. When was the enhanced
8 OMP implemented?
9 A. Around June. They were
10 there in the development of it.
11 Q. Okay. So they were there
12 between April and June 2007?
13 A. That's correct.
14 Q. About how many times did
15 they come meet with you then?
16 A. I don't remember.
17 Q. More than ten?
18 A. I don't remember.
19 Q. And at some point they gave
20 you training on how to conduct due
21 diligence?
22 A. I explained that. They gave
23 us general guidelines and -- and
24 observations, and they were there during

Page 257

1 the development.
2 Q. How long did you meet with
3 them?
4 A. I don't remember.
5 Q. All day, or --
6 A. I don't remember.
7 Q. Did anyone ever give you
8 formal training on the DEA laws and
9 regulations?
10 MS. McCLURE: Object to the
11 form.
12 THE WITNESS: I've had
13 training several times over the
14 years. I think we talked about
15 that earlier during our training
16 conferences.
17 BY MR. PIFKO:
18 Q. At this time in 2007 had
19 anyone given you training on DEA rules
20 and regulations?
21 MS. McCLURE: Object to the
22 form.
23 THE WITNESS: Yes.
24 BY MR. PIFKO:

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1 Q. Well, you correct me then.
2 A. I said I met with DEA in
3 Atlanta once.
4 Q. Okay.
5 A. I've met with DEA at
6 different meetings, conference -- trade
7 association conferences. They've been to
8 the offices to do training at our
9 training conferences. I provided training
10 to DEA people.
11 Q. When did DEA -- DEA came to
12 AmerisourceBergen's office to do
13 training?
14 A. Yes. Yes.
15 Q. When was that?
16 A. During our training
17 conferences.
18 Q. Annually, every year?
19 A. Not every year. But they
20 came, they were invited. Sometimes they
21 were invited and couldn't come. But we
22 tried to invite them almost every year.
23 That's to our entire department.
24 Q. Did anyone other than DEA

Page 261

1 train you on DEA rules and regulations?
2 MS. McCLURE: Object to the
3 form. Asked and answered.
4 THE WITNESS: Not other than
5 internal people.
6 BY MR. PIFKO:
7 Q. Who internally gave you
8 training on DEA rules and regulations?
9 A. Other directors and managers
10 in our department that were -- that had
11 experience in the past.
12 Q. Can you name anyone?
13 A. Rodney Bias. Larry Holland.
14 Chris Zimmerman. Myself, I've done
15 training for our team.

Page 262

[REDACTED]

Page 264

1 [REDACTED]

Page 263

[REDACTED]

Page 265

[REDACTED]

Page 266

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Page 272

[REDACTED]

Page 271

[REDACTED]

Page 273

[REDACTED]

Page 274

[REDACTED]

Page 276

[REDACTED]

14 Q. You are involved in or have
15 been involved in various committees with
16 the HDA, correct?

17 A. Yes. That's correct.

18 Q. When did you first start
19 having involvement with the HDA on behalf
20 of AmerisourceBergen?

21 MS. McCLURE: Object to the
22 form.

23 THE WITNESS: I don't
24 recall. I don't recall.

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[REDACTED]

Page 277

1 BY MR. PIFKO:

2 Q. Early in your time working
3 with them?

4 MS. McCLURE: Objection.
5 Asked and answered.

6 THE WITNESS: Early in my
7 time working for
8 AmerisourceBergen?

9 BY MR. PIFKO:

10 Q. Yeah.

11 A. No. No.

12 Q. Do you recall the first time
13 that you were invited to be part of a
14 committee in the HDA?

15 MS. McCLURE: Objection to
16 the form.

17 THE WITNESS: It would
18 probably have been sometime after
19 2002.

20 BY MR. PIFKO:

21 Q. Okay. And what committee
22 was that?

23 A. Regulatory affairs
24 committee.

<p style="text-align: right;">Page 278</p> <p>1 Q. What were your 2 responsibilities on the regulatory 3 affairs committee? 4 MS. McCLURE: Objection. 5 Assumes facts not in evidence. 6 Form. 7 THE WITNESS: Not really any 8 distinct responsibilities. Just 9 participated in calls that they 10 had. 11 BY MR. PIFKO: 12 Q. How often did you do that? 13 A. I can't remember. I know 14 the calls now are, like, biweekly. I 15 don't remember what the frequency was 16 when I first participated. 17 Q. Who else participated in the 18 calls? 19 MS. McCLURE: Objection 20 to -- to form. 21 THE WITNESS: Just about 22 any -- it was -- it was mostly 23 regulatory affairs counterparts 24 from within our industry. But</p>	<p style="text-align: right;">Page 280</p> <p>1 affairs committee calls, yeah. 2 BY MR. PIFKO: 3 Q. And then did you meet with 4 them in person ever? 5 A. Typically during their 6 annual meetings, annual distribution 7 management conference. Typically we 8 would meet sometimes during those. But 9 rarely -- rarely were they in person 10 meetings. Typically it was just the 11 phone calls. 12 Q. What type of issues did you 13 discuss in the phone calls? 14 A. Any regulatory issues that 15 were of interest to the members. 16 Q. And what do you mean by 17 regulatory issues? 18 A. It could be ranging from 19 HAZMAT issues with DOT, OSHA issues, DEA, 20 Board of Pharmacy, any type of issues 21 that affected the members that applied to 22 the members, regulations, pending 23 regulations. 24 Q. Are you familiar with the</p>
<p style="text-align: right;">Page 279</p> <p>1 just about any member could 2 participate in the call or listen 3 in. 4 BY MR. PIFKO: 5 Q. Do you remember the names of 6 any specific individuals? 7 A. That are on the committee? 8 Q. Yes. 9 A. Yes. 10 Q. Can you name them? 11 A. From other companies? 12 Q. Yes. 13 A. Gosh. Steve Reardon from 14 Cardinal was. Gary Hilliard who was with 15 McKesson. Brad Pine from Smith Drug. 16 I'm trying to think if there was anybody 17 else. That's the ones that I remember. 18 George Hewson from HD Smith. 19 Q. So you had regular calls 20 with them, correct? 21 MS. McCLURE: Objection to 22 form. 23 THE WITNESS: Well, we 24 participated in the HDA regulatory</p>	<p style="text-align: right;">Page 281</p> <p>1 HDA's industry compliance guidelines? 2 A. Yes, I'm familiar with them. 3 Q. Were you involved in helping 4 put those together? 5 MS. McCLURE: Objection to 6 the form. 7 THE WITNESS: Well, HDA put 8 those together. I participated in 9 a meeting when they were getting 10 input from their members in how to 11 develop those guidelines. 12 BY MR. PIFKO: 13 Q. Just one meeting? 14 A. There may have been more 15 than one. But I just remember the one. 16 Q. Was that on the phone or in 17 person? 18 A. That was in person at HDA's 19 offices. 20 Q. So when was that? 21 A. I'm thinking probably 2008 22 sometime, or '9, sometime in that time 23 frame. 24 Q. To help your recollection,</p>

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1 I'll represent to you that the guidelines
2 were first published in 2008.
3 A. Okay.
4 Q. Okay. So do you think that
5 it was around that time?
6 A. I would think so.
7 Q. Do -- were there other
8 members of the industry present at that
9 meeting?
10 A. The discussion to develop
11 them?
12 Q. Yes.
13 A. Yes, but I don't remember
14 who was there. Who was in attendance.
15 (Document marked for
16 identification as Exhibit
17 ABDC-Mays-3.)
18 (Document marked for
19 identification as Exhibit
20 ABDC-Mays-4.)
21 BY MR. PIFKO:
22 Q. I'm handing you two exhibits
23 at one time, Exhibits 4.
24 A. Thank you.

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1 Q. And Exhibit 5.
2 MR. PIFKO: You know what, I
3 skipped 3. So --
4 MS. McCLURE: 3.
5 MR. PIFKO: -- I'm going to
6 give you 3.
7 MS. McCLURE: Okay.
8 MR. PIFKO: 4 and 3.
9 MS. McCLURE: So this is 4.
10 The single page e-mail.
11 MR. PIFKO: 4.
12 THE WITNESS: Okay.
13 BY MR. PIFKO:
14 Q. Take a minute to review
15 that. One of the documents is the
16 guideline. You don't need to sit there
17 and read the whole thing. We'll get into
18 it. If I'm asking about it and you want
19 to read it, you can. But just for right
20 now, you can look at the e-mail and the
21 attachment.
22 A. You're not going to ask
23 specific questions about the guidelines?
24 Because I'll need to read it if you are.

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1 Q. Yeah, you can. I just --
2 A. Okay.
3 Q. We don't need to sit here
4 while you are reading the whole thing.
5 Exhibit 4 is this e-mail Bates-labeled
6 ABDCMDL00295006.
7 On the second page there.
8 A. On the back?
9 Q. Yeah.
10 A. This is the e-mail chain?
11 Q. Yeah, it's an e-mail from
12 Chris to you. And he's asking if you
13 know when HDMA published the guidelines.
14 He remembers going to DC with Cardinal,
15 McKesson.
16 A. Yep. Yes.
17 Q. Does that refresh your
18 recollection about anyone who was there?
19 A. No, I mean not -- not the
20 sparse specific individuals. I would
21 assume Cardinal and McKesson would have
22 been in that meeting, because they were
23 members.
24 Q. Do you know if Chris went

Page 285

1 with you. He says, "We spent some time"?
2 A. Yes, I remember Chris and I
3 both went.
4 Q. Okay. Anyone else from
5 Amerisource go with you?
6 A. I don't think so.
7 Q. Then you write back to him
8 that the guidelines were put together in
9 October 2008 after Cardinal's DEA
10 suspension.
11 A. It sounds right.
12 Q. What do you know about
13 Cardinal's suspension in 2008?
14 A. I don't know a lot of
15 specifics. I know in general what it was
16 about.
17 Q. What do you know generally?
18 A. It was tied to their
19 distribution to, I think CVS stores in
20 Florida. Other than that I couldn't tell
21 you any specifics.
22 Q. Do you know if they entered
23 into a settlement agreement?
24 A. I think they did, but I'm

<p style="text-align: right;">Page 286</p> <p>1 not positive. I'm assuming they did. 2 Q. Do you know if they paid a 3 fine? 4 A. I believe they did. 5 Q. Do you have a sense of how 6 much? 7 A. It was like in 32 million, 8 something like that. I think. 9 Q. Do you remember that being 10 significant or a topic of discussion in 11 the industry? 12 A. I can't remember. I would 13 assume it was. 14 Q. Hmm? 15 A. I would -- I would think it 16 would be. 17 Q. Then this talks about 18 another one in 2012? 19 MS. McCLURE: Sorry, where 20 are you, Mark? 21 MR. PIFKO: Same document, 22 Document 4. 23 MS. McCLURE: Oh. 24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 288</p> <p>1 I just want to clarify for 2 the record. So, Sterling, your 3 position, and I'm -- I'm not 4 saying it's correct or incorrect. 5 I'm just trying to make sure I 6 understand your position. 7 Your position is you did not 8 have to -- 9 MR. PIFKO: The order says 10 if you're -- if you're aware of 11 the information in the document, 12 then you don't have to show it at 13 the time. You're already -- 14 you're already a covered person 15 who is allowed to see the document 16 if you're a recipient or a 17 participant in the document. That 18 provision only applies if you're 19 not a covered person. 20 MS. McCLURE: Thank you for 21 the explanation. 22 MR. PIFKO: No problem. 23 MS. McCLURE: And the 24 interruption.</p>
<p style="text-align: right;">Page 287</p> <p>1 Q. I can't -- the same e-mail 2 that you're saying there, "They had 3 another one in 2012." Do you see that, 4 related to Walgreens? 5 A. Yes. Yeah, I see that. 6 Q. Do you know what that one 7 was about? 8 A. Not specifically. 9 Q. Do you know it's related to 10 Walgreens? 11 A. Yeah, I remembered it was 12 related to Walgreens. 13 Q. Do you have -- oh, sorry. 14 (Document marked for 15 identification as Exhibit 16 ABDC-Mays-5.) 17 BY MR. PIFKO: 18 Q. I'm handing you what's been 19 marked as Exhibit 5. For the record it's 20 a document from Cardinal Health 21 production, Bates labeled 22 CAH_MDL2804_00865762 and 86574. 23 MS. McCLURE: I need just a 24 moment to review this, please.</p>	<p style="text-align: right;">Page 289</p> <p>1 But -- and you're talking 2 about the currently in effect 3 protective order for this case has 4 that exception in it? 5 MR. PIFKO: Yes. 6 MS. McCLURE: And is there 7 someone here from Cardinal? 8 MS. PETERSEN: Yes. Miranda 9 Petersen. 10 MS. McCLURE: I just want to 11 make sure that there's no dispute 12 about their ability to use this 13 document. 14 MS. PETERSEN: I haven't 15 seen the document. 16 BY MR. PIFKO: 17 Q. Exhibit 5 is an e-mail from 18 you -- 19 A. Mm-hmm. 20 Q. -- in response to a Cardinal 21 Health press release where Cardinal 22 announces that it got an injunction 23 against -- or a restraining order that 24 allowed them to resume shipments at their</p>

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1 Lakeland facility despite the DEA having
2 suspended their registration. Do you see
3 that?
4 A. Mm-hmm, yes.
5 Q. And you write to Steve
6 Reardon and Michael Mone and say "Nice
7 work!" Agreed?
8 A. Agreed.
9 Q. Why did you say that to
10 them?
11 A. Well, because I've known
12 both of those guys personally for a long
13 time. I was just congratulating them on
14 successfully getting the restraining
15 order.
16 Q. You were pleased that they
17 got a court to allow them to overrule a
18 DEA decision to suspend their
19 registration?
20 A. Well, I would think --
21 MS. McCLURE: Object to the
22 form. You can answer.
23 THE WITNESS: I would think
24 maybe DEA has made some mistake or

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1 a judge wouldn't have put a
2 restraining order in place. So I
3 think that they -- you know, they
4 should be able to continue doing
5 business.
6 BY MR. PIFKO:
7 Q. You were pleased that they
8 pointed out some mistake the DEA had
9 made?
10 MS. McCLURE: Objection to
11 the form.
12 THE WITNESS: No, I'm just
13 pleased -- I'm just pleased for my
14 people that I knew for a long time
15 personally. I was just pleased
16 for them that they were able to
17 get some success.
18 BY MR. PIFKO:
19 Q. And who are Steve Reardon
20 and Michael Mone?
21 A. Well, Steve Reardon and
22 Michael Mone work for Cardinal Health.
23 Steve has since retired. Known him for
24 probably 20 years or so.

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1 Q. What do they do at Cardinal
2 Health?
3 A. Steve doesn't do anything
4 there. He's retired.
5 Q. At the time you knew them or
6 at that time.
7 A. He was my counterpart for
8 the most part. Regulatory. I don't know
9 what his exact title was.
10 Q. You were friendly with them?
11 MS. McCLURE: Objection to
12 the form.
13 THE WITNESS: Not so much
14 personal friends, but just -- just
15 associates, you know, that we have
16 know -- known each other for a
17 long time.
18 BY MR. PIFKO:
19 Q. And you interacted with them
20 a lot in the course of your dealings?
21 MS. McCLURE: Objection to
22 form.
23 THE WITNESS: Not a lot, no.
24 BY MR. PIFKO:

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1 Q. Well --
2 MS. McCLURE: We've been
3 going about an hour and a half, so
4 when you get a moment.
5 THE WITNESS: Yeah, I -- I
6 need a potty break myself.
7 MR. PIFKO: We are in the
8 middle of this question. So let
9 me just ask a question.
10 BY MR. PIFKO:
11 Q. You said they were people
12 that you knew for a long time personally.
13 They were personal friends
14 of yours?
15 A. Not --
16 MS. McCLURE: Objection to
17 form. Asked and answered.
18 THE WITNESS: I think I
19 answered that.
20 BY MR. PIFKO:
21 Q. I'm asking you again.
22 A. I don't know how you define
23 personal friend versus personal versus
24 friendly business associate. But I have

Page 294

1 known -- gotten to know them for -- over
2 the years, as -- as members of regulatory
3 affairs committee and meeting -- seeing
4 them in meetings and things like that.
5 But no, we don't go take family vacations
6 together.
7 MR. PIFKO: Okay. Thank
8 you. We can take a break.
9 MS. McCLURE: Thank you.
10 THE VIDEOGRAPHER: We are
11 going on break. The time is
12 3:00 p.m.
13 (Short break.)
14 THE VIDEOGRAPHER: We are
15 going back on the record.
16 Beginning of Media File Number 4.
17 The time is 3:18.
18 BY MR. PIFKO:
19 Q. Do you know what the -- the
20 outcome of the 2012 suspension order with
21 Cardinal Health was that you referred to
22 here in these exhibits?
23 A. I don't remember distinctly,
24 no.

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1 Q. Do you know if they paid a
2 fine in connection with that?
3 A. I don't remember.
4 Q. So let's turn to Exhibit 3,
5 the industry compliance guidelines?
6 A. Okay.
7 Q. For the record, Bates
8 labeled ABDCMDL00295009 through 5024.
9 So these are -- have you
10 seen these before?
11 A. I'm sorry?
12 Q. Exhibit 3, the final
13 guidelines published in 2008. Have you
14 seen them before?
15 A. I believe I have. Yes.
16 Q. These are the best practices
17 you were talking about in -- in Exhibit 4
18 developed at the -- I'm quoting, Chris'
19 e-mail to you, the best practices that
20 HDMA ultimately sent to DEA, and that you
21 met with Cardinal and McKesson and DC to
22 discuss this, correct?
23 A. No. Where did you get
24 meeting Cardinal? Oh, you're talking

Page 296

1 about --
2 Q. Exhibit --
3 A. Developing the guidelines.
4 Q. Yes.
5 A. Yes, and it seems like they
6 did a revision at some point. But I
7 don't remember when that was.
8 Q. Okay. Yeah. I think there
9 was a later version in 2012 or something.
10 A. Maybe a later revision --
11 okay.
12 Q. Says that every time
13 Cardinal gets a DEA enforcement action.
14 I want to focus your
15 attention to ABDCMDL 295015.
16 A. Which would be like Page 7
17 of 16?
18 Q. Right, right.
19 A. Okay.
20 Q. We can use whichever page
21 you prefer.
22 A. Okay. All right.
23 Q. All right. You see under a
24 heading Monitoring For Suspicious Orders.

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1 Heading 2. Do you see that?
2 A. I see that.
3 Q. Okay. System design. "It
4 is recommended that a distributor develop
5 an electronic system with accompanying
6 written standard operating procedures to
7 meet the DEA's requirement in
8 Section 1301.74(b), that a distributor
9 'design and operate a system to disclose
10 to the registrant suspicious orders of
11 controlled substances."
12 Do you see that?
13 A. Mm-hmm. Excuse me.
14 Q. Do you agree with that?
15 MS. McCLURE: Objection to
16 the form.
17 THE WITNESS: Give me a
18 second to read it again.
19 BY MR. PIFKO:
20 Q. No problem.
21 A. I believe that's -- I
22 believe that's accurate.
23 Q. Let's go to the next page
24 here.

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1 A. Okay.

2 Q. Heading C, "Develop

3 Thresholds to Identify Orders of

4 Interest."

5 Do you see that?

6 A. Yes, I do.

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

Page 299

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. What's your current position

12 at AmerisourceBergen?

13 A. Senior director, corporate

14 security and regulatory affairs.

15 Q. You still have

16 responsibilities for diversion under your

17 purview?

18 A. No.

19 Q. When did you switch into a

20 role where you no longer had diversion

21 control function and --

22 A. When -- I'm sorry. When

23 David May was hired.

24 Q. Okay. And that was in 2014?

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1 A. I believe so. I'm not sure

2 the exact date.

3 Q. Up until that time, you had

4 responsibilities that included diversion

5 control, correct?

6 A. On and off during the

7 time -- during the time period.

8 Q. You said in 2007 you were

9 the top person that had diversion control

10 responsibilities, correct?

11 A. That's correct. Yes.

12 Q. At some point someone came

13 in and you didn't have diversion control

14 responsibilities?

15 A. That's correct.

16 Q. Who was that?

17 A. Well, when Ed Hazewski was

18 put in charge of the diversion control

19 program. He reported directly to Chris.

20 Q. Do you know when that was?

21 A. Sometime in 2008, or '9, I

22 believe.

23 Q. And at that time you had no

24 responsibilities for diversion control

Page 301

1 issues?

2 A. No direct -- no direct

3 responsibilities, no.

4 Q. But then you reassumed them

5 at some point?

6 A. At some point, Chris had Ed

7 start reporting to me.

8 Q. And when was that?

9 A. I think it was around 2012.

10 Q. Did Chris tell you why he

11 wanted Ed to start reporting to you

12 instead of him?

13 A. No, he didn't or I don't

14 remember why.

15 Q. Did Ed tell you why?

16 A. I don't think he did. I

17 don't recall why.

18 Q. So from 2012, at that point

19 in 2012 to 2014, your involvement with

20 diversion control was overseeing Ed?

21 A. Right.

22 Q. Anything else?

23 A. That's correct. That was

24 pretty much it. He just reported up to

Page 302

1 me. But he ran the program.
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 Q. If you look on this -- Page
 12 8 of this document.
 13 A. Okay. I'm there.
 14 Q. It's talking about
 15 thresholds for identifying orders of
 16 interest. Do you see that?
 17 A. I do.
 18 Q. First paragraph.
 19 Then, second paragraph says,
 20 "When evaluating thresholds, orders of
 21 unusual size and unusual frequency can be
 22 used to signal that an order may need
 23 further review."
 24 Do you see that?

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1 A. Yes, I do.
 2 Q. Do you have an understanding
 3 about what the criteria are that make
 4 something an order of interest?
 5 MS. McCLURE: Objection to
 6 the form.
 7 THE WITNESS: In general, if
 8 an order hits one of those
 9 thresholds, that would make it an
 10 order of interest.
 11 BY MR. PIFKO:
 12 Q. One of those thresholds
 13 being, if it's an unusual size or unusual
 14 frequency?
 15 MS. McCLURE: Objection to
 16 the form.
 17 THE WITNESS: I think it's
 18 related to the threshold that's --
 19 again, this is HDA -- HDMA's
 20 created guidelines. I'm not sure
 21 what they meant.
 22 But my thinking is when it
 23 hits a threshold, it becomes an
 24 order of interest.

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1 BY MR. PIFKO:
 2 Q. But this says when
 3 evaluating threshold, orders of unusual
 4 size and unusual frequency can be used to
 5 signal that an order may need further
 6 review. Do you see that?
 7 MS. McCLURE: Objection to
 8 the form.
 9 THE WITNESS: I can't really
 10 interpret what HDMA put together.
 11 It's not -- it's not my document.
 12 BY MR. PIFKO:
 13 Q. Okay. Well, let's talk
 14 about you. You said that you are
 15 familiar that Amerisource has used the
 16 term "order of interest," correct?
 17 A. I'm not sure if it's
 18 officially. It's just "order of
 19 interest" is an easy way to say it's in
 20 review. Just another way of saying it's
 21 in review.
 22 Q. What criteria does
 23 AmerisourceBergen use to determine
 24 whether an order is an order of interest?

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1 MS. McCLURE: Objection.
 2 Asked and answered.
 3 THE WITNESS: Which time
 4 period?
 5 MS. McCLURE: You can
 6 answer.
 7 BY MR. PIFKO:
 8 Q. At any time period.
 9 A. I can't tell -- I can't
 10 speak to how it's determined today.
 11 During this time period, if
 12 an order hit the threshold, it was -- it
 13 was considered to be in review or an
 14 order of interest.
 15 Q. And an order hitting the
 16 threshold is an order that exceeds what
 17 was the three times the average, right?
 18 MS. McCLURE: Objection to
 19 the form.
 20 You can answer.
 21 THE WITNESS: Excuse me.
 22 It would -- it would be an
 23 order that exceeded the threshold
 24 for that customer for whatever

<p style="text-align: right;">Page 306</p> <p>1 peer group they are in and size 2 they are. 3 BY MR. PIFKO: 4 Q. And that's an order of 5 unusual size, because it exceeds the 6 average, correct? 7 MS. McCLURE: Objection to 8 the form. 9 THE WITNESS: Those 10 thresholds were -- ask the 11 question again. 12 BY MR. PIFKO: 13 Q. An order that exceeds its 14 threshold is an order of unusual size. 15 That's the point of the threshold. It's 16 an average, and you're saying it's three 17 times more, correct? 18 A. It could be. It could be. 19 MS. McCLURE: Objection to 20 the form. 21 BY MR. PIFKO: 22 Q. Do you have an understanding 23 that AmerisourceBergen under any policies 24 that AmerisourceBergen would halt the</p>	<p style="text-align: right;">Page 308</p> <p>1 order that is suspicious? 2 A. I'm not familiar with what's 3 in the customers' contracts. 4 Q. Have you ever discussed that 5 with anybody? 6 A. As far as what would be in 7 the contract? 8 Q. And whether you're allowed 9 to halt the shipment of a suspicious 10 order. 11 A. Well, that's what we did. 12 If we reported an order as suspicious, it 13 was halted. 14 Q. Have you ever heard pushback 15 from a customer, you're not allowed to do 16 that? 17 A. No. I can't remember ever 18 having a customer telling me that we're 19 not allowed to do that. 20 Q. How about if an order is in 21 review? Have you ever heard a customer 22 complain that an order is in review and 23 they're frustrated it's not being shipped 24 while it's in review?</p>
<p style="text-align: right;">Page 307</p> <p>1 shipment of an order of interest? 2 A. Would we halt the shipment 3 of -- 4 Q. You don't ship an order 5 because it's an order of interest? 6 A. If it's an order of 7 interest, it's in review and during this 8 period it would be held until that order 9 is adjudicated. 10 Q. What I'm trying to 11 understand is, is it -- at any time was 12 it AmerisourceBergen's policy that it 13 could refuse or reject a shipment that 14 was categorized as an order of interest? 15 MS. McCLURE: Objection to 16 the form. 17 THE WITNESS: I'm not sure. 18 I can't answer that. 19 BY MR. PIFKO: 20 Q. You don't know either way? 21 A. I don't know either way. 22 Q. In AmerisourceBergen's 23 contracts with its customers, does it 24 have a right to halt the shipment of an</p>	<p style="text-align: right;">Page 309</p> <p>1 A. Yes. 2 Q. Yes? 3 A. Yes. Customers complain 4 frequently. 5 Q. What do you tell them? 6 A. It doesn't -- 7 MS. McCLURE: Objection to 8 the form. 9 THE WITNESS: It depends on 10 the circumstance. 11 BY MR. PIFKO: 12 Q. Does the company have a 13 policy about communicating to customers 14 when their orders are held in review? 15 MS. McCLURE: Objection to 16 the form. 17 THE WITNESS: I don't know 18 what the policy is. 19 BY MR. PIFKO: 20 Q. Do you think they have one? 21 MS. McCLURE: Objection to 22 the form. 23 THE WITNESS: I don't know. 24 BY MR. PIFKO:</p>

<p style="text-align: right;">Page 310</p> <p>1 Q. You're not familiar with it?</p> <p>2 A. I don't know.</p> <p>3 Q. Do you know if there's any</p> <p>4 training to employees about whether --</p> <p>5 the extent to which they're allowed to</p> <p>6 communicate with customers when their</p> <p>7 orders are held in review?</p> <p>8 MS. McCLURE: Objection to</p> <p>9 the form.</p> <p>10 THE WITNESS: Don't know.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Looking at Page 9.</p> <p>13 A. Okay.</p> <p>14 Q. Under Heading 3.</p> <p>15 A. Okay.</p> <p>16 Q. "Suspend/stop an order of</p> <p>17 interest shipment."</p> <p>18 Do you see that?</p> <p>19 A. Yeah, I see it.</p> <p>20 Q. Do you recall discussing the</p> <p>21 concept of orders of interest when you</p> <p>22 met in D.C. with the HDA and the other</p> <p>23 members of industry to discuss these</p> <p>24 guidelines?</p>	<p style="text-align: right;">Page 312</p> <p>1 Q. You don't recall either way?</p> <p>2 A. I don't recall anyone else</p> <p>3 discussing their programs other than us.</p> <p>4 Q. But you know you did?</p> <p>5 A. Yeah.</p> <p>6 Q. And that was in their</p> <p>7 presence?</p> <p>8 A. If they were there it was in</p> <p>9 their presence, yes.</p> <p>10 Q. When you attend an HDA</p> <p>11 meeting, is there a sign-in sheet?</p> <p>12 MS. McCLURE: Objection to</p> <p>13 the form.</p> <p>14 THE WITNESS: No. Typically</p> <p>15 not, no.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Someone circulate meeting</p> <p>18 minutes after the meeting?</p> <p>19 A. I believe they do.</p> <p>20 Q. Does it list the attendees?</p> <p>21 A. Which type of -- let me ask</p> <p>22 you a question. Which type of HDA</p> <p>23 meeting are we talking about?</p> <p>24 Q. A regulatory --</p>
<p style="text-align: right;">Page 311</p> <p>1 A. No, I don't remember</p> <p>2 specifically discussing that.</p> <p>3 Q. What do you remember</p> <p>4 discussing?</p> <p>5 A. I don't remember any</p> <p>6 specifics about the meeting. I just</p> <p>7 remember that we were discussing HDMA</p> <p>8 putting those guidelines together.</p> <p>9 Q. Did you discuss what</p> <p>10 AmerisourceBergen's OMP practices were at</p> <p>11 that meeting?</p> <p>12 A. In general, yes, we did.</p> <p>13 Q. Did the other members --</p> <p>14 well, let me just -- did the</p> <p>15 representatives from Cardinal explain</p> <p>16 what their system was at that meeting?</p> <p>17 A. I don't recall that they</p> <p>18 did.</p> <p>19 Q. How about McKesson. Did</p> <p>20 anyone from McKesson describe their</p> <p>21 suspicious order monitoring program at</p> <p>22 that meeting?</p> <p>23 A. No, I don't recall that they</p> <p>24 did.</p>	<p style="text-align: right;">Page 313</p> <p>1 A. A conference or --</p> <p>2 Q. A regulatory affairs</p> <p>3 meeting.</p> <p>4 MS. McCLURE: Objection to</p> <p>5 the form.</p> <p>6 THE WITNESS: They are</p> <p>7 generally conference calls and</p> <p>8 they take a rollcall and really</p> <p>9 all they keep up with is how many</p> <p>10 companies, which companies are on</p> <p>11 the call, not so much which</p> <p>12 individuals.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. And they --</p> <p>15 A. From what I can tell the way</p> <p>16 they take rollcall.</p> <p>17 Q. They circulate meeting</p> <p>18 minutes after those calls?</p> <p>19 A. Not normally, no.</p> <p>20 Q. And then from time to time</p> <p>21 there's in-person meetings?</p> <p>22 A. Rarely for regulatory</p> <p>23 affairs committee.</p> <p>24 Q. Do they circulate meeting</p>

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1 minutes of those?
2 A. Not normally.
3 Q. But they have?
4 A. I'm trying to remember. I
5 don't think they do. I don't remember
6 ever getting minutes from a regulatory
7 affairs committee meeting.
8 Q. How about from this industry
9 compliance discussion. Do you know if
10 there was any notes or anything
11 circulated to anybody who participated
12 afterwards?
13 MS. McCLURE: Objection to
14 form.
15 THE WITNESS: No. Not that
16 I recall.
17 BY MR. PIFKO:
18 Q. Did you serve on any other
19 committees besides the regulatory affairs
20 committee?
21 A. As far as serving, no. I
22 participated in other committees, but
23 just to listen in on their calls.
24 Q. What other committees?

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1 A. Like federal government
2 affairs. State government affairs.
3 Q. Any others?
4 A. That's it that I can think
5 of.
6 Q. Have you attended meetings
7 in person for other committees?
8 A. I filled in on a state
9 government affairs in-person meeting for
10 our state government affairs person
11 because she couldn't make the meeting and
12 she asked me to fill in for her.
13 Q. Who was that?
14 A. Her name was Julie Eddy,
15 E-D-D-Y.
16 Q. Do you recall there being
17 any sort of final outcome when you
18 attended this meeting in D.C. concerning
19 the industry compliance guidelines?
20 MS. McCLURE: Objection to
21 the form.
22 THE WITNESS: I don't -- as
23 far as the outcome? I -- other
24 than them creating the guidelines.

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1 BY MR. PIFKO:
2 Q. Did -- did everybody review
3 drafts of the guidelines and ultimately
4 weigh in on them?
5 A. I can't say.
6 MS. McCLURE: Objection to
7 the form.
8 THE WITNESS: I can't say
9 for sure.
10 BY MR. PIFKO:
11 Q. Did you take any notes of
12 your meeting --
13 A. No.
14 Q. -- concerning the
15 guidelines?
16 A. No.
17 Q. Do you know if Mr. Zimmerman
18 did?
19 MS. McCLURE: Objection to
20 the form.
21 THE WITNESS: Don't know.
22 BY MR. PIFKO:
23 Q. Did the two of you discuss
24 the guidelines after the meeting?

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1 A. Well, the guidelines weren't
2 present at the meeting.
3 Q. The idea of the guidelines?
4 A. Well, we discussed it before
5 and after the meeting. We knew what the
6 purpose of the meeting was.
7 Q. What did you think about the
8 idea of having industry compliance
9 guidelines?
10 MS. McCLURE: Objection to
11 the form.
12 THE WITNESS: What did I
13 think about the idea? I think
14 it's good for the rest of the
15 industry to have programs.
16 BY MR. PIFKO:
17 Q. What did you and
18 Mr. Zimmerman discuss about the
19 guidelines after the meeting?
20 A. Nothing specifically.
21 Q. How about before?
22 A. Just whether or not they
23 put -- you know, follow what -- what we
24 had explained we did.

<p style="text-align: right;">Page 318</p> <p>1 Q. You wanted the guidelines to 2 be consistent with what you were doing? 3 MS. McCLURE: Objection to 4 the form. 5 THE WITNESS: No, I'm not 6 saying that. I just think that 7 DEA asked us to present our 8 program twice to the industry 9 conference. So we -- we kind of 10 made the assumption that the rest 11 of the industry wanted to try to 12 follow our guidelines as closely 13 as possible. 14 BY MR. PIFKO: 15 Q. Do you believe that they do? 16 A. Don't know. I don't know 17 what they do. 18 Q. How about the HDMA 19 guidelines, do you feel like they follow 20 your policies? 21 A. I think it's modeled after 22 them. I'm not sure it exactly follows 23 it. It's been a long time since I've 24 gone through it and read it.</p>	<p style="text-align: right;">Page 320</p> <p>1 like a call-in center? 2 A. It's more like -- yeah, like 3 customer service. They would take calls 4 from customers. 5 Q. Do you know if they are 6 trained on how to field an inquiry from a 7 customer about an order that's held? 8 A. They may have been, but I 9 don't know any specifics. 10 Q. Let's talk about the -- the 11 role of a sales associate in preventing 12 diversion. 13 A. Okay. 14 Q. Do sales associates have any 15 job responsibilities in preventing 16 diversion? And let me -- let me put a 17 time frame on that to make it a better 18 question. 19 Prior to the new OMP system 20 that you put in place in 2007, did sales 21 associates have any role in assisting the 22 company in preventing diversion? 23 MS. McCLURE: Objection to 24 the form.</p>
<p style="text-align: right;">Page 319</p> <p>1 Q. I mentioned earlier about 2 the idea of communicating with customers 3 about a canceled order. 4 A. Mm-hmm. 5 Q. Is there a specific person 6 whose job it is to communicate with 7 customers about canceled order? 8 MS. McCLURE: Objection to 9 the form. 10 THE WITNESS: From our 11 department? 12 BY MR. PIFKO: 13 Q. Anyone in the company -- 14 MS. McCLURE: Objection. 15 BY MR. PIFKO: 16 Q. -- that you're aware of. 17 A. I wouldn't know who they 18 would talk to. 19 Q. Are the sales associates the 20 first line of communications with 21 customers? 22 A. Probably customer care. 23 Or -- or the sales associates. 24 Q. What customer care, is that</p>	<p style="text-align: right;">Page 321</p> <p>1 THE WITNESS: The sales 2 associates are -- are required to 3 comply with all the laws and 4 regulations. And they were asked 5 prior to the suspension to -- to 6 do site visits, due diligence 7 visits of customers. 8 BY MR. PIFKO: 9 Q. What were they supposed to 10 look for at these visits? 11 A. They had a questionnaire 12 that they would fill out with the 13 customers and there were certain things 14 that they were told to look for, like, 15 you know, FedEx, or boxes stacked up in 16 the back, and there were other signs of 17 internet pharmacy that we talked about 18 briefly. 19 Q. Anything else? 20 MS. McCLURE: Objection to 21 the form. 22 THE WITNESS: I can't think 23 of anything right offhand. 24 BY MR. PIFKO:</p>

Page 322

1 Q. Are you familiar with the
 2 idea of red flags of diversion? Have you
 3 ever heard that term before?
 4 A. Yes, yes.
 5 Q. What about things like a
 6 pharmacy that only takes cash, is that a
 7 red flag of diversion?
 8 A. Yes. That's a red flag.
 9 Q. Are sales associates
 10 supposed to look out for that?
 11 A. I believe so.
 12 Q. In the pre-2007 time period,
 13 were they trained to look out for that?
 14 A. I can't remember when those
 15 red flag -- red flags came out as far as
 16 when we started using those to train
 17 salespeople. I don't remember the time
 18 frame, but they -- at some point they
 19 were trained that that was a red flag to
 20 look for.
 21 Q. You don't know if they were
 22 trained for that prior to 2007?
 23 A. No.
 24 Q. Do you know if sales

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1 associates were paid on commission based
 2 on sales that the customers would make or
 3 purchase?
 4 A. My --
 5 MS. McCLURE: Objection to
 6 the form.
 7 THE WITNESS: My
 8 understanding is they are not paid
 9 on commission anymore. Not for
 10 years.
 11 BY MR. PIFKO:
 12 Q. All right. How about in
 13 2007 -- prior to 2007, before?
 14 A. Even then. It's been years
 15 since they were paid commission, from
 16 what I understand.
 17 Q. Do you have any kind of
 18 sense of whether their performance was
 19 evaluated based on increasing sales or
 20 meeting sales targets?
 21 A. I have no knowledge of how
 22 their -- what their compensation is based
 23 on.
 24 Q. You don't know either way?

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1 A. I'm sorry?
 2 Q. You don't know either way?
 3 A. No, I don't.
 4 Q. As someone who is the
 5 highest person in the company in
 6 diversion control for many years, do you
 7 think it's appropriate for salespeople to
 8 have performance tied to sales --
 9 MS. McCLURE: Objection.
 10 BY MR. PIFKO:
 11 Q. -- of controlled substances?
 12 MS. McCLURE: Objection to
 13 the form of the question.
 14 THE WITNESS: Okay. That's
 15 not my area of responsibilities as
 16 far as determining how they are
 17 paid and compensated.
 18 As long as -- as long as
 19 they comply with the laws and
 20 regulations. That's not my role.
 21 BY MR. PIFKO:
 22 Q. I'm not asking if it's your
 23 role. I'm asking -- you had a role. You
 24 were the top person responsible for

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1 diversion control at the company for many
 2 years.
 3 I'm asking you if, in your
 4 experience, you think it's appropriate to
 5 have someone have their -- their
 6 performance of their job measured by how
 7 much controlled substances they sell?
 8 MS. McCLURE: Objection to
 9 the form of the question.
 10 THE WITNESS: I don't think
 11 that's the case with our
 12 salespeople, that I know of.
 13 BY MR. PIFKO:
 14 Q. Do you think it's
 15 appropriate?
 16 MS. McCLURE: Objection to
 17 the form of the question.
 18 THE WITNESS: I guess it
 19 depends on what context you're
 20 asking. Just generally to sell
 21 more controls, I wouldn't -- I
 22 would not think that would be
 23 appropriate.
 24 BY MR. PIFKO:

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<p>1 Q. Why not?</p> <p>2 A. I'm not -- I'm not sure that</p> <p>3 that's, you know -- I wouldn't think</p> <p>4 that's a good practice, especially once</p> <p>5 controls are a very small percentage of</p> <p>6 what we distribute.</p> <p>7 Q. Why wouldn't you think</p> <p>8 that's a good practice?</p> <p>9 A. To be compensated for</p> <p>10 selling more controls?</p> <p>11 Q. Yeah.</p> <p>12 A. I just think it would put</p> <p>13 more controls -- it would be encouraging</p> <p>14 customers to buy more controls than they</p> <p>15 need possibly. I don't -- I don't know</p> <p>16 why they would be.</p> <p>17 Q. Right. And so you wouldn't</p> <p>18 want any policies at the company that</p> <p>19 would encourage customers to buy more</p> <p>20 controls than they need, right?</p> <p>21 MS. McCLURE: Objection to</p> <p>22 the form.</p> <p>23 THE WITNESS: Yeah, I</p> <p>24 wouldn't want to encourage</p>	<p>1 consequences are and what their</p> <p>2 responsibilities are.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. What's the difference?</p> <p>5 MS. McCLURE: Objection to</p> <p>6 the form.</p> <p>7 THE WITNESS: The difference</p> <p>8 in what?</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Keeping them out of trouble</p> <p>11 versus guiding them.</p> <p>12 A. Well, from my experience,</p> <p>13 some pharmacists are fairly ignorant of</p> <p>14 what their responsibilities are. And so</p> <p>15 we've tried -- you know, we've tried over</p> <p>16 the years to educate them as much as we</p> <p>17 could, as far as what their corresponding</p> <p>18 responsibilities are.</p> <p>19 Q. You wouldn't want to tell</p> <p>20 them to change their ordering practices</p> <p>21 in a way that would allow them to order</p> <p>22 controls without getting in trouble?</p> <p>23 A. No.</p> <p>24 MS. McCLURE: Objection to</p>
Page 327	Page 329
<p>1 customers to buy more controls.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. What about -- do you think</p> <p>4 it's appropriate to encourage customers</p> <p>5 to manipulate their ordering behavior to</p> <p>6 circumvent the order monitoring program?</p> <p>7 MS. McCLURE: Objection to</p> <p>8 the form.</p> <p>9 THE WITNESS: No, I wouldn't</p> <p>10 want them to try to circumvent the</p> <p>11 program at all. I wouldn't want</p> <p>12 to help them encourage it.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. Would you want to guide</p> <p>15 customers in any way to help them avoid</p> <p>16 being the subject of regulatory activity</p> <p>17 in connection with controlled substances</p> <p>18 purchases?</p> <p>19 MS. McCLURE: Objection to</p> <p>20 the form.</p> <p>21 THE WITNESS: Only to keep</p> <p>22 them out of trouble. Not to guide</p> <p>23 them to circumvent anything.</p> <p>24 Maybe to educate them on what the</p>	<p>1 the form.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. A quote here from David May,</p> <p>4 I want to read to you.</p> <p>5 He testified: "I don't</p> <p>6 believe our customers need to know some</p> <p>7 of the proprietary information that's</p> <p>8 sensitive around the program."</p> <p>9 He's talking about the order</p> <p>10 monitoring program.</p> <p>11 "And again, the reason being</p> <p>12 is, if there was a customer that wanted</p> <p>13 to defeat it, we want -- to the extent</p> <p>14 possible that we can prevent that from</p> <p>15 happening, we want to do that."</p> <p>16 MS. McCLURE: Continuing</p> <p>17 objection to putting up other</p> <p>18 witness's testimony without</p> <p>19 context in front of this witness.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Do you agree that you want</p> <p>22 to prevent customers from being aware of</p> <p>23 how the order monitoring program works so</p> <p>24 that they can't defeat it?</p>

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1 MS. McCLURE: Objection to
2 the form.
3 THE WITNESS: I -- I agree
4 with David's comments, his
5 testimony here.
6 (Document marked for
7 identification as Exhibit
8 ABDC-Mays-6.)
9 BY MR. PIFKO:
10 Q. I'm giving you what's been
11 marked as Exhibit 6 and a document that
12 was attached to it, Exhibit 7.
13 (Document marked for
14 identification as Exhibit
15 ABDC-Mays-7.)
16 BY MR. PIFKO:
17 Q. For the record, Exhibit 6 is
18 ABDCMDL00288025, and Exhibit 7 is
19 ABDCMDL00288026.
20 Take a moment to review that
21 and let me know when you're done.
22 A. Okay. I've reviewed them.
23 Q. Have you seen this document
24 before?

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1 A. I don't recall either one of
2 them. It looks like I was copied on one
3 of them.
4 Q. Who is James Rice?
5 A. I'm not sure he's still in
6 that role, manager buying groups,
7 community & specialty pharmacy.
8 Q. Do you remember discussing
9 this issue with people?
10 A. Tell me what you think the
11 issue is.
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 Do you see that?
18 MS. McCLURE: Objection to
19 form.
20 THE WITNESS: No. I -- go
21 ahead.
22 MS. McCLURE: Did you just
23 characterize this as a document
24 that was sent to customers? I

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1 could be incorrect.
2 MR. PIFKO: I didn't say
3 that.
4 BY MR. PIFKO:
5 Q. I'm also handing you --
6 A. That's what I heard you say
7 too. A memo that was sent out to
8 customers.
9 Q. I said there was a memo sent
10 out to customers.
11 A. Oh. Not one of these?
12 (Document marked for
13 identification as Exhibit
14 ABDC-Mays-8.)
15 BY MR. PIFKO:
16 Q. I've also handed you
17 Exhibit 8 which is ABC --
18 ABDCMDL00288028.
19 MS. McCLURE: Is there a
20 question pending or are you asking
21 him to --
22 BY MR. PIFKO:
23 Q. I want you to review --
24 review Exhibit 8 as well. And I meant to

Page 333

1 hand that to you originally, but I didn't
2 realize it wasn't in the pile.
3 MS. McCLURE: Okay. He
4 wants you to read 8.
5 BY MR. PIFKO:
6 Q. You've got three documents.
7 A. Okay. Okay.
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 334

[REDACTED]

Page 336

[REDACTED]

Page 335

[REDACTED]

Page 337

[REDACTED]

Page 338

[REDACTED]

Page 340

[REDACTED]

Page 339

[REDACTED]

Page 341

[REDACTED]

Page 342

[REDACTED]

Page 344

[REDACTED]

Page 343

[REDACTED]

Page 345

[REDACTED]

Page 346

[REDACTED]

Page 348

1 A. No. I don't remember it.
2 Q. The first, Exhibit 9, is an
3 e-mail from Ed Hazewski to you dated
4 June 17, 2013.
5 A. Yes, I see it.

[REDACTED]

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[REDACTED]

8 (Document marked for
9 identification as Exhibit
10 ABDC-Mays-9.)
11 BY MR. PIFKO:
12 Q. I'm handing you what's been
13 marked as Exhibit 9 and 10.
14 (Document marked for
15 identification as Exhibit
16 ABDC-Mays-10.)
17 BY MR. PIFKO:
18 Q. For the record Exhibit 9 is
19 an e-mail Bates-labeled ABDCMDL00282233,
20 and Exhibit 10 is an attachment to that,
21 Bates-labeled ABDCMDL00282234.
22 A. Okay.
23 Q. Do you recall seeing these
24 documents?

Page 349

[REDACTED]

Page 350

[REDACTED]

Page 352

[REDACTED]

Page 351

[REDACTED]

Page 353

[REDACTED]

9 Q. Earlier you said, from your
10 experience, some pharmacists are fairly
11 ignorant of what their responsibilities
12 are. Do you recall that?
13 A. Mm-hmm.
14 Q. What experience --
15 A. I said some. Not all.
16 Q. What experience do you have
17 about pharmacists being ignorant of their
18 responsibilities?
19 A. On the experience of some of
20 my visits to some pharmacies, asking
21 questions and getting the answers that I
22 got.
23 Q. What kind of questions did
24 you ask and answers that you get that

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1 made you think they were ignorant of
 2 their responsibilities?
 3 A. Just some of the statements
 4 that some would make about, if the doctor
 5 writes it, then I have to fill it. You
 6 know, who am I to question the doctor,
 7 things like that. They have a -- it's in
 8 the regulations, they have a
 9 corresponding responsibility.
 10 Q. They can question that --
 11 the doctor?
 12 A. Absolutely.
 13 Q. They don't have to fill
 14 every prescription that's presented to
 15 them?
 16 A. No, they do not.
 17 Q. Did you do anything to
 18 educate customers about those -- those
 19 regulations?
 20 A. Yes. During -- during those
 21 visits to certain pharmacies, and also we
 22 did some training at what they call
 23 cluster meetings.
 24 Q. What's a cluster meeting?

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1 A. Its customers are -- it's a
 2 group of retail pharmacy customers that
 3 are part of one of the programs, one of
 4 our corporate programs. And they would
 5 have what they call cluster meetings, and
 6 they would discuss a lot of things and
 7 maybe talk about programs and things like
 8 that. And we were -- I know I was
 9 invited to present to some customers on a
 10 couple of occasions on the whole
 11 diversion control issue and try to
 12 educate them on their responsibilities.
 13 Q. Do you remember any specific
 14 pharmacies who fit in this category?
 15 A. No. Most of the ones I did
 16 were in Florida. I think a couple
 17 that -- the couple that I did were in
 18 Florida.
 19 Q. Did you ever witness any of
 20 these pharmacies filling questionable
 21 prescriptions?
 22 A. No. No.
 23 Q. Did you ever report any of
 24 them to the DEA?

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1 MS. McCLURE: Objection to
 2 the form.
 3 THE WITNESS: Report the
 4 actual pharmacy to the DEA? At
 5 one time we reported pharmacies to
 6 the DEA that we had determined
 7 that we were going to stop doing
 8 business with, that we were going
 9 to cut off. We would report those
 10 to DEA.
 11 BY MR. PIFKO:
 12 Q. When was that?
 13 A. There was a period in, I
 14 think it was between -- after 2007, DEA
 15 had actually encouraged different members
 16 of the industry to report to DEA
 17 customers that they had cut off. And the
 18 DEA would send an e-mail out to the other
 19 distributors to tell them that this
 20 customer had been cut off by another
 21 distributor.
 22 Q. And what's the idea there?
 23 A. I think that got stopped at
 24 some point.

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1 Q. Do you have an understanding
 2 of why they were doing that?
 3 A. Well, I think -- I think it
 4 probably is some people at DEA don't have
 5 a real good understanding of antitrust
 6 laws and things like that. And I think
 7 they were trying to, you know, kind of
 8 blacklist pharmacies to keep other
 9 distributors -- because what was
 10 happening, one distributor would cut a
 11 pharmacy off, they would just open up an
 12 account with another one. I think DEA
 13 was trying to -- I think DEA was trying
 14 to prevent that as much as they could.
 15 Q. Do you recall the names of
 16 any pharmacies that you reported to the
 17 DEA?
 18 MS. McCLURE: Objection to
 19 the form.
 20 THE WITNESS: There's been
 21 several, yeah, I just don't know
 22 specifics. We had a couple. I
 23 remember a few.
 24 I'm going to grab a glass of

Page 358

1 water while you're doing that.
2 MR. PIFKO: Do you want to
3 take a quick -- we don't have to
4 all leave the room. We can go off
5 the record for five minutes.
6 MS. McCLURE: Yeah, let's
7 take a five-minute.
8 THE VIDEOGRAPHER: Going off
9 the record. The time is 4:27.
10 (Short break.)
11 THE VIDEOGRAPHER: Back on
12 the record. Beginning Media File
13 Number 5. The time is 4:45.
14 BY MR. PIFKO:
15 Q. I'm handing you what's
16 marked as Exhibit 12.
17 (Document marked for
18 identification as Exhibit
19 ABDC-Mays-12.)
20 BY MR. PIFKO:
21 Q. Document Bates-labeled --
22 MS. McCLURE: What was 11?
23 BY MR. PIFKO:
24 Q. ABDCMDL00275491-2.

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1 MS. McCLURE: Did we skip 11
2 or am I --
3 MR. PIFKO: No, it's
4 hardly --
5 MS. McCLURE: No, I'm
6 just --
7 THE WITNESS: There's not an
8 11. Maybe that's the one that you
9 sent to be printed. Is that going
10 to be 11?
11 MR. PIFKO: I don't know
12 where 11's sticker is. It doesn't
13 matter. This one's 12. We'll
14 figure it out.
15 MS. McCLURE: Okay. Well,
16 for the record, I don't believe
17 there was an 11. So let's go to
18 12.
19 BY MR. PIFKO:
20 Q. It's an e-mail from you to
21 Chris Zimmerman, forwarding something
22 with the subject, "More West Virginia
23 counties target distributors in opioid
24 crisis; related media likely to get

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1 congressional attention." It's dated
2 March 14, 2017.
3 Take a moment to review it
4 and let me know when you're done.
5 A. Okay.
6 Q. So this is an e-mail
7 describing some lawsuits about the opioid
8 crisis. And you reply: "I guess if all
9 the distributors stopped shipping
10 controlled substances into West Virginia
11 the problem would be solved, correct?"
12 Do you see that?
13 A. Yeah, I see it.
14 Q. Do you agree that if
15 distributors stop selling controlled
16 substances into West Virginia, the opioid
17 crisis there would have been stopped?
18 MS. McCLURE: Objection.
19 THE WITNESS: No.
20 BY MR. PIFKO:
21 Q. What did you mean by this?
22 A. It was just a snarky
23 comment.
24 Q. Do you think the opioid

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1 crisis was a joke?
2 A. No, I don't at all.
3 Q. Apparently you think it's
4 worth making snarky comments about with
5 your colleagues?
6 A. No.
7 Q. You did here?
8 A. Yeah, it was, yeah. It
9 was -- it was an inappropriate snarky
10 comment out of frustration that we were
11 getting sued by all these people. Yeah.
12 Q. Why were you frustrated --
13 A. By distributing
14 pharmaceuticals into the state.
15 Q. Why were you frustrated?
16 A. Because I don't think we are
17 guilty of anything. It's a little
18 frustrating to be getting sued by all
19 these counties --
20 Q. Do you think that --
21 A. -- and cities and so forth,
22 and -- and we haven't done anything wrong
23 in my opinion.
24 Q. Do you think that

<p style="text-align: right;">Page 362</p> <p>1 AmerisourceBergen as a distributor had 2 any role in the opioid crisis? 3 MS. McCLURE: Objection to 4 the form. 5 THE WITNESS: No. 6 BY MR. PIFKO: 7 Q. Did you sell pills into West 8 Virginia? 9 A. We distribute to pharmacies 10 and customers in West Virginia, yes. 11 Q. You don't think any of the 12 sales that you made contributed to the 13 epidemic? 14 A. I don't know if they did or 15 not. 16 Q. Between you and 17 AmerisourceBergen, are you -- and 18 Cardinal Health and McKesson control 19 about 90 percent of the market, you don't 20 think any of you guys together had a role 21 in selling the pills that created this 22 crisis? 23 MS. McCLURE: Objection to 24 the form. I'm going to ask you if</p>	<p style="text-align: right;">Page 364</p> <p>1 MR. PIFKO: I understand 2 your objection. I've read the -- 3 I've read the direction. 4 MS. McCLURE: No, I'm going 5 to make it for the record. Not 6 just for you, Mark. 7 So Special Master ruled that 8 such a topic was inappropriate for 9 discussion in the 30(b)(6) 10 context. 11 I also note that in the fact 12 witness context, this witness has 13 not been designated as a 30(b)(6) 14 witness. And so in a fact witness 15 context, it's even more 16 inappropriate to ask witnesses 17 whether they believe that there 18 was any role played or whether any 19 company or defendant contributed 20 to the crisis. 21 So I -- we object to this 22 continuing line of questioning. 23 BY MR. PIFKO: 24 Q. Same question --</p>
<p style="text-align: right;">Page 363</p> <p>1 you want the witness to be excused 2 or if you want me to interpose my 3 objection on the record with the 4 witness present. 5 MR. PIFKO: You can make a 6 valid objection. You don't need 7 the witness to leave. 8 MS. McCLURE: Sure. My 9 valid objection is that pursuant 10 to Special Master Cohen's ruling 11 on the legal interpretation and 12 conclusion about whether -- 13 when -- when witnesses are asked 14 questions about whether, for 15 example here AmerisourceBergen, 16 caused and/or contributed to the 17 opioid epidemic, the Special 18 Master ruled that -- 19 MR. PIFKO: I think it's 20 different in the context of this 21 e-mail. 22 MS. McCLURE: I'm not -- 23 wasn't finished talking. You can 24 talk after I talk.</p>	<p style="text-align: right;">Page 365</p> <p>1 A. Do you want to repeat the 2 question? 3 Q. Yeah. I asked if you along 4 with McKesson and Cardinal Health 5 controlled 90 percent of the market, you 6 don't think that you've had any 7 contribution to the crisis in West 8 Virginia? 9 A. I don't think -- 10 MS. McCLURE: Again, 11 objection to this continuing line 12 of questioning under the Special 13 Master's prior ruling. 14 THE WITNESS: Do you want me 15 to answer? 16 BY MR. PIFKO: 17 Q. Yes. 18 A. I don't think so. 19 Q. You said you didn't do 20 anything wrong. Do you recall saying 21 that? 22 A. I'm sorry? 23 Q. You said we didn't do 24 anything wrong. Do you recall saying</p>

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1 that?

2 A. I just said that, yes.

3 Q. Yeah. What about the DEA

4 enforcement action. Do you think you had

5 bad conduct that led to that?

6 A. The enforcement action --

7 MS. McCLURE: Objection to

8 the form of the question.

9 BY MR. PIFKO:

10 Q. The one that we've been

11 talking about, the 2007 one.

12 A. In 2007? I don't believe we

13 admitted to any -- any wrongdoing or any

14 violations.

15 Q. So you don't think you did

16 anything wrong. We're talking about

17 whether the company --

18 A. I don't think we did

19 anything wrong, no.

20 Q. You think the DEA was out to

21 lunch when they went out to get you?

22 MS. McCLURE: Objection to

23 the form of the question.

24 THE WITNESS: I'm not -- no,

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1 I'm not -- I don't say -- I am not

2 saying that.

3 BY MR. PIFKO:

4 Q. Well, what are you saying?

5 Why would they go after you if you didn't

6 do anything wrong?

7 A. Because in their opinion

8 they thought we did.

9 Q. And you think they are

10 wrong?

11 A. I think they are wrong, yes.

12 Q. Why do you think they are

13 wrong?

14 A. Because we comply with the

15 regulations.

16 Q. Did your company pay money

17 to the West Virginia Attorney General in

18 connection with the lawsuit they brought

19 against you?

20 A. I believe we did.

21 Q. Do you think you did

22 anything wrong there?

23 A. No.

24 MR. PIFKO: The document I'm

Page 368

1 waiting to be printed just

2 arrived.

3 I found 11.

4 MS. McCLURE: Magic.

5 (Document marked for

6 identification as Exhibit

7 ABDC-Mays-11.)

8 BY MR. PIFKO:

9 Q. I'm handing you what's

10 marked as Exhibit 11 and Exhibit 13.

11 (Document marked for

12 identification as Exhibit

13 ABDC-Mays-13.)

14 THE WITNESS: Thank you.

15 BY MR. PIFKO:

16 Q. Take a minute to review

17 that.

18 MR. PIFKO: This is 11. And

19 this is 13.

20 MS. McCLURE: Thank you.

21 MR. PIFKO: For the record,

22 Exhibit 11 is Bates labeled

23 ABDCMDL00289421. And Exhibit 13

24 is Bates labeled ABDCMDL00289422

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1 through 429.

2 BY MR. PIFKO:

3 Q. Let me know when you're done

4 reviewing those.

5 A. Okay.

6 Q. Let's go to the last page of

7 Exhibit 13.

8 A. Okay.

9 Q. 289429.

10 A. Okay.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

Page 370

[REDACTED]

Page 372

[REDACTED]

Page 371

[REDACTED]

Page 373

[REDACTED]

Page 374

[REDACTED]

Page 376

[REDACTED]

Page 375

[REDACTED]

Page 377

[REDACTED]

15 MR. PIFKO: We are going to
16 take a short break. I think we're
17 done.
18 THE VIDEOGRAPHER: Going off
19 the record. The time is 5:04.
20 (Short break.)
21 THE VIDEOGRAPHER: Go back
22 on the record. Beginning Media
23 File Number 6. The time is 5:14.
24 MR. PIFKO: All right.

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1 Unless you have any direct
 2 examination, I have no further
 3 questions.
 4 MS. McCLURE: I have no
 5 further questions -- I have no
 6 questions. How about that.
 7 MR. PIFKO: All right.
 8 Thank you.
 9 THE VIDEOGRAPHER: This
 10 concludes today's deposition. We
 11 are going off record. The time is
 12 5:14.
 13 (Excused.)
 14 (Deposition concluded at
 15 approximately 5:14 p.m.)
 16
 17
 18
 19
 20
 21
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 23
 24

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1
 2 CERTIFICATE
 3
 4
 5 I HEREBY CERTIFY that the
 6 witness was duly sworn by me and that the
 7 deposition is a true record of the
 8 testimony given by the witness.
 9
 10 It was requested before
 11 completion of the deposition that the
 12 witness, STEPHEN MAYS, have the
 13 opportunity to read and sign the
 14 deposition transcript.
 15
 16 MICHELLE L. GRAY,
 17 A Registered Professional
 18 Reporter, Certified Shorthand
 19 Reporter, Certified Realtime
 20 Reporter and Notary Public
 21 Dated: October 29, 2018
 22
 23 (The foregoing certification
 24 of this transcript does not apply to any
 reproduction of the same by any means,
 unless under the direct control and/or
 supervision of the certifying reporter.)

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1 INSTRUCTIONS TO WITNESS
 2
 3 Please read your deposition
 4 over carefully and make any necessary
 5 corrections. You should state the reason
 6 in the appropriate space on the errata
 7 sheet for any corrections that are made.
 8 After doing so, please sign
 9 the errata sheet and date it.
 10 You are signing same subject
 11 to the changes you have noted on the
 12 errata sheet, which will be attached to
 13 your deposition.
 14 It is imperative that you
 15 return the original errata sheet to the
 16 deposing attorney within thirty (30) days
 17 of receipt of the deposition transcript
 18 by you. If you fail to do so, the
 19 deposition transcript may be deemed to be
 20 accurate and may be used in court.
 21
 22
 23
 24

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1 - - - - -
 2 E R R A T A
 3 - - - - -
 4 PAGE LINE CHANGE
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 6 REASON: _____
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 24 REASON: _____

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the
foregoing pages, 1 - 383, and that the
same is a correct transcription of the
answers given by me to the questions
therein propounded, except for the
corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

STEPHEN MAYS DATE

Subscribed and sworn
to before me this
____ day of _____, 20____.
My commission expires: _____

Notary Public

Page 383

LAWYER'S NOTES

PAGE LINE

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